

**Legislation of Interest to Judicial Officials**  
**2003 Session**  
**James Drennan and Joan Brannon, UNC Institute of Government**

**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 19, 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 fails to appear (law formerly required previous finding of probable cause by judicial official before OFA could be issued). Effective April 19, 2003.
3. **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.
4. **S.L. 2003-95 (S 449). Qualifications of persons withdrawing blood in DWI cases.** Amends GS 20-139.1(c) to provide that testimony about the qualifications of the person withdrawing blood under implied consent statute may be offered by affidavit and the affidavit is sufficient to constitute prima facie evidence regarding the person's qualifications. Effective Dec. 1, 2003.
5. **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.
6. **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.
7. **S.L. 2003-110 (H 510). Speedometer offense lesser-included offense of speeding.** Effective Dec. 1, 2003.
8. **S.L. 2003-137 (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.
9. **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, 2003.
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. 2003-148 (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.
  12. **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.
  13. **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.
  14. **S.L. 2003-159 (H 42). Penalties for unauthorized sound and video recordings.** Amends GS 14-437 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.
  15. **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.
  16. **S.L. 2003-181 (H 304). Stalking-supervised probation.** Amends GS 14-277.3 to require person convicted of 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.
  17. **S.L. 2003-184 (S 38). HOV lanes.** Amends GS 20-146.2 to specify certain restrictions on the use of high occupancy vehicle lanes so designated by the DOT: Vehicles may not enter or exit except at designated openings and motorcycles, vehicles designed for more than 15 people, or vehicles with more than three axles may not use HOV lanes. Effective Dec. 1, 2003.

- 18. 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.
- 19. S.L. 2003-199 (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 June 14, 2003.
- 20. S.L. 2003-205 (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, except that amendment to GS Ch. 122C effective June 19, 2003..
- 21. S.L. 2003-206 (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. Except as specified otherwise, effective Mar. 1, 2004.
- 22. S.L. 2003-249 (S 694). Drug analogues.** Adds new GS 90-89.1 to provide that controlled substance analogue, to the extent intended for human consumption, is treated as a controlled substance in Schedule I (GS 90-89). Defines analogue as substance that has substantially similar chemical structure to listed substances, and which has similar effects on central nervous system, or substance that a particular person intends to have an effect on the central nervous system that is substantially similar to or greater than the effect of a schedule I or II substance. Provides some specified exceptions. Effective December 1, 2003. and defines sexual contact to include touching of sexual organ, anus, breast, groin or buttocks, or to use one’s similar parts to touch another. Effective Dec. 1, 2003.
- 23. S.L. 2003-280 (H 562), as amended by S.L. 2003-380 (H 786). Speed cameras.** Adds new GS 160A-300.4 to authorize city of Charlotte to use cameras to detect speeders on 14 specified streets. Requires any equipment used to be approved by state, and calibrated and tested as provided by GS 8-50.3. Requires sworn officer to be present when the equipment is used. Provides that violations are not enforced in criminal or infractions court, but through nonjudicial administrative hearing process. Review of hearing is to superior court. Provides that owner of vehicle is responsible for violation unless owner provides evidence someone else was in control of vehicles. Allows owner to submit affidavit indicating who was in control of vehicle at time of violation. Requires citation

- issued directing person to pay for violation or to appear at hearing to be in English and Spanish, and requires persons answering phone to have people on duty who can answer questions in both languages. Adds new GS 8-50.3 to specify regulatory structure for approval, calibration and testing of cameras. Makes the camera results admissible in the administrative hearing process. Clear proceeds of penalties go to school fund. Effective July 1, 2003 and expires June 30, 2006.
- 24. S.L. 2003-297 (H 1037). Juvenile escape and fingerprinting.** Amends GS 14-239 to make that crime of allowing prisoner to escape applicable to custodial person allowing juvenile to escape from Department of Juvenile Justice facility. Amends GS 7B-2102 to require county detention facility to photograph juvenile in its custody if juvenile is at least 10 years old and is charged with nondivertible offense; also allows court to order release of juvenile's photograph if juvenile escapes from confinement facility. Amendment to GS 14-39 effective Dec. 1, 2003 for offenses committed on or after that date. Amendments to GS 7B-2102 effective Oct. 1, 2003.
- 25. S.L. 2003-298 (S 521). Fireworks at concerts.** Amends GS 14-413 to allow board of commissioners of county to issue permits for use of pyrotechnic devices at public exhibitions and concerts, and if use is to be indoors, must be approved by the local fire marshal (or state fire marshal if UNC is conducting exhibition). Also applies to cities having permit authority by any local acts. Makes violations of pyrotechnics statutes a Class 1 misdemeanor if use is for indoor exhibition or concert. Punishment change effective Dec. 1, 2003, but permit authority effective July 4, 2003.
- 26. S.L. 2003-299 (H 1171). Hazing law amendments.** Amends GS 14-35 to specify that victim of hazing must be in attendance at university or college, and to specify that hazing means subjecting another student to physical injury as part of an initiation or membership requirement in any organized school group. Repeals GS 14-36, which makes it a misdemeanor to fail to expel a student convicted of hazing. Effective Dec. 1, 2003, for offenses committed on and after that date.
- 27. S.L. 2003-303 (H 408). Peeping statutes revised.** Rewrites GS 14-202 to make the general crime of peeping into a room occupied by another to apply to both males and females; current law applies only to people peeping into room occupied by female. Adds several additional criminal offenses based on violations of the basic rule, depending on the conduct: (1) If defendant has camera or similar while peeping, is Class A1 misdemeanor; (2) If defendant actually makes photographic image of victim for purpose of arousal, is Class I felony; (3) If defendant installs device to make photographic image in room, for purpose of arousing sexual desire of any person, is Class I felony; (4) If defendant possesses a photographic image obtained in violation of this section, is Class I felony; (5) If defendant disseminates photographic image obtained in violation of statute without victims consent, is Class H felony. For second or subsequent convictions, punishment is one class higher. If defendant placed on probation for a second offense, requires judge to require psychological evaluation and treatment. Person convicted of felony or second misdemeanor offense required to register as sex offender if judge so orders. Exempts law enforcement officers and private detectives in the course of their duties. Effective Dec. 1, 2003 for offenses committed on and after that date.
- 28. S.L. 2003-310 (H 1140) Removal of disabled vehicles from highway.** Amends GS 20-161 to authorize law enforcement officer to move vehicle that is disabled, wrecked, abandoned, etc. from controlled access highway if it constitutes a hazard or interferes with traffic flow, unless there is an accident involving serious injury or death; in that case, vehicle may not be moved until investigation complete. Amends GS 20-166 to direct drivers to move vehicles involved in accidents out of the flow of traffic, pending

- completion of accident investigations, if the vehicles are driveable and no personal injury. Effective Oct. 1, 2003.
29. **S.L. 2003-396 (S 934). DWI multiple assessments.** Amends GS 122C-142.1 to require entities assessing convicted DWI offenders to pay a licensing fee to DHHS, and specifies that person charged with multiple offenses pending at same time must pay assessment fee for each charge (but one assessment may be used for all charges), and only one treatment or education program may be required to satisfy re-licensing requirement. Effective Oct. 1, 2003 for assessments conducted on or after that date.
  30. **S.L. 2003-397 (S 61). Commercial driver license changes.** Amends GS 20-4.01(41a) to include in definition of “serious traffic violation” (for which disqualification to drive commercial vehicle can be triggered for two convictions) the following—driving commercial vehicle without commercial license or without having one on the driver’s person, or without proper endorsements. Adds proviso to GS 20 37.12 to allow person charged with not having CDL to produce one valid at time of charge and have charge dismissed. Amends GS 20-17.4 to require disqualification from driving CDL if convicted of railroad grade crossing offenses while in commercial vehicle. Railroad crossing offenses effective Oct. 1, 2003. Amendments to GS 20-4.01 effective Jan. 1, 2005.
  31. **S.L. 2003-410 (S 919). Crimes of violating provisions in domestic violence protective order requiring surrender of firearms.** Enacts new GS 50B-3.1 to make it a unlawful (apparently a Class H felony) for person subject to a protective order prohibiting purchase or possession of firearms to fail to surrender firearms and permits to the sheriff as ordered by the court; to fail to disclose information relating to possession of firearms and permits as requested by the court; or to provide false information to the court about firearms and permits. Makes it a Class H felony to own, possess, purchase, or receive a firearm, machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court so long as protective order or any successive order is in effect. Provision in GS 50B-3.1 does not apply to law enforcement officers and members of armed services possessing or using firearms for official use only. Rewrites GS 14-269.8 to make purchase, owning, possessing, or receiving firearm, machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by court for so long as protective order or any successive protective order is in effect a Class H felony but does not include exemption for law enforcement or armed services, which means protective order should include specific authority to possess for that purpose. Effective Dec. 1, 2003 for offenses committed on or after that date.
  32. **S.L. 2003-351 (H 497). Remove sunset on power of arrest for private correctional officers.** Removes sunset on SL 2001-378, which grants private correctional officers same arrest power as Dep’t of Correction officers.
  33. **S.L. 2003-394 (H 963). License revocation for leaving scene of accident.** Amends GS 20-166 to require DMV to revoke drivers license for one year of person convicted of leaving scene of accident that resulted in injury or death, but if court makes a finding that a longer period of revocation is appropriate, DMV shall revoke for two years. Allows judge to grant limited driving privilege for first conviction of leaving scene. Effective Dec. 1, 2003 for offenses committed on or after that date.
  34. **S.L. 2003-406 (S 226). Unauthorized medicine in daycare centers.** Adds new GS 110-102.1A to make it unlawful to willfully administer medicine to child in child care center without written permission of child’s parent or guardian, unless it is emergency and appropriate medical professional directs that medicine be given. Violation is a Class

- F felony if there is serious injury, and a Class A1 misdemeanor if not. Effective Dec. 1 2003.
- 35. S.L. 2003-409 (H 926). Enhanced penalty for assault in present of a child.** Amends GS 14-33 to provide that perpetrator who, in the course of an assault inflicts serious injury upon another person or uses a deadly weapon on a person with whom the perpetrator has a personal relationship (current or former spouse, person of the opposite sex with whom has lived, have a child in common, current or former household members, parent and child, grandparent and grandchild, or person of the opposite with whom have had a dating relationship) and in the presence of a minor shall be placed on supervised probation in addition to any other punishment imposed. Provides that a second or subsequent violation requires an active punishment of no less than 30 days in addition to any other punishment imposed. Minor is defined in this statute as person under the age of 18 who is residing with or is under the care and supervision of, and who has a personal relationship with the person assaulted or the person committing the assault. Effective Dec. 1, 2003 for offenses committed on or after that date.
- 36. S.L. 2003-378 (S 693). Enhanced sentences amendments.** Amends various sections of GS Chapter 15A, which provided for enhanced sentences in certain circumstances (for example using a firearm), to meet requirements of *Apprendi v. New Jersey*, 530 U.S. 466 (2000) and *State v. Lucas*, 353 N.C. 568 (2001). Provides that indictment must allege facts that would support the enhanced punishment and the State must prove the issues beyond a reasonable doubt in the trial in which defendant is tried for the felony. Effective August 1, 2003 for offenses committed on or after that date.
- 37. S.L. 2003-376 (H 79). Require DNA sample from certain defendants.** Amends GS 15A-266.4 to require DNA sample from person who is convicted of or found not guilty by reason of insanity of a felony to be taken at intake to jail, prison or mental health facility (current law requires DNA sample for conviction of specified felonies). Requires court to order person not sentenced to a term of confinement to report to sheriff for taking of DNA sample and requires SBI to furnish sheriff materials necessary to draw DNA, which must be used to take sample of non-confined defendants. Persons confined and convicted before effective date must have sample drawn before release from penal system or mental health facility. Effective Dec. 1, 2003.
- 38. S.L. 2003-377 (H 1026). Worthless check program.** Amends GS 14-107.2 to authorize AOC to establish worthless check program (operated out of district attorney's office) in any prosecutorial district where it is economically feasible (now, operates in 7 districts). Requires AOC to consider following factors regarding feasibility: population of district; number of worthless check prosecutions; and availability of personnel and equipment in the district and specifies that first districts to which program must be expanded if economically feasible are Districts 1, 3A, 18, 25, 28 and 29. Effective August 1, 2003.
- 39. S.L. 2003-392 (S 661). Increase punishment for unlawful burning that results in serious injury to firefighter and bombing governmental building.** Adds GS 14-69.3 to make it a Class E felony for person to commit arson or other burning felony under Article 15 of the General Statutes in which a firefighter or emergency medical technician suffers serious bodily injury while discharging his or her duties to contain the burning. Amends GS 14-49 to make it a Class E felony to willfully and maliciously damage the State Capitol, the Legislative Building, the Justice Building, or any other building owned and occupied by the state, a county, a city, or any other governmental unity by the use of an explosive or incendiary device. Effective Dec. 1, 2003 for offenses committed on or after that date.

- 40. S.L. 2003-380 (H 786). Evidence rules in red light camera, parking cases.** Amends GS 160A-301, -300.1, -300.2, -300.3 to provide that persons cited for violations of certain parking violations and failing to stop for stop lights (where cameras are used) may avoid liability by filing affidavit indicating who was in control of vehicle. If owner not notified for 90 days from date of offense, may not be held liable. Effective August 1, 2003. **S. L. 2003-**
- 41. S.L. 2003--252 (S 912). Sexual battery.** Adds new GS 14-27.5A to establish offense of sexual battery, as Class A1 misdemeanor. Offense occurs if a person, for sexual arousal, gratification or abuse engages in sexual contact with another person by force, or with a person who is mentally disabled or incapacitated, or is physically helpless, and the offender knows or should know the victim is helpless or disabled. Defines touching to include touchings done through clothing and not in direct contact with skin of victim and defines sexual contact to include touching of sexual organ, anus, breast, groin or buttocks, or to use one's similar parts to touch another. Effective Dec. 1, 2003.

#### Civil

- 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, and (2) appeal is pending in that court or the time for appeal has not yet expired and an undertaking in amount consistent with NC law is paid to the court. Amends GS 1-289, undertaking to stay execution on money judgment, to provide that for judgments of \$25 million or more under any legal theory and for any kind of damages, the amount of the undertaking is capped at \$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. 2003-59 (H 636). Electronic docketing of judgments.** Amends GS 1-233 to require that judgments be indexed and recorded (was, entered) on the judgment docket 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, i.e. clock in time). Deletes obsolete 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. Amends GS 1-234 to specify that a judgment lien is effective as to third parties as of the indexing of the judgment, and 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, rather than date of rendition of judgment. 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.
- 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. 2003-107 (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 include any order entered pursuant to parties' consent as well as any order entered after a hearing. Specifies that motion to renew protective order must be

- filed before current order expires and that ground for renewing order is a showing of good cause. Commission of act prohibited by statute after current order was issued is not required for extension. Clarifies that an order that has previously been renewed may nonetheless be extended again. Effective May 31, 2003.
5. **S.L. 2003-168. (S 394). Equitable distribution claims survive death.** Amends GS 50-20(1) to specify that not only does existing claim for equitable distribution survive the death of spouse if the parties are living apart at the time of the death but also that claim for equitable distribution may be filed after the death of a spouse. Treats equitable distribution action as claim against decedent's estate both for purposes of requirement to file claim and for purposes of order of payment of claim. Allows personal representative to settle the claim, and settlement must be filed with clerk where letters granted. 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.
  6. **S.L. 2003-208 (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 June 19, 2003.
  7. **S.L. 2003-236 (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. (Although the statute specifies "judge" presumably the same would apply to the clerk appointing a guardian ad litem. Effective Dec. 1, 2003.
  8. **S.L. 2003-288 (S 423). Enhance child support enforcement.** Amends GS 50-13.4(c) to provide that if an arrearage for child support or fees due exists at the time that a child support obligation terminates, payments must continue in same total amount that was due under terms of child support order or wage withholding until the total amount of arrearages and fees are satisfied. Amends GS 110-135 to provide that if obligor dies, a state or local IVD program must determine whether obligor's estate contains sufficient assets to satisfy any child support arrearages and if so, must attempt to collect the arrearage. Amends GS 50-13.11(a1) to provide that when health insurance is not presently available at reasonable cost, judge can order parent to maintain health insurance for benefit of child when it becomes available at a reasonable cost. Amends GS 110-139.2 to specify a procedure for DHHS to levy on bank account of obligor who is delinquent in child support payments. Effective July 4, 2003 except for procedure to reach obligor's bank account, which is effective 90 days after July 4, 2003.
  9. **S.L. 2003-303 (H 408). Peeping law revision.** Amends GS 14-202 to allow person whose image is captured or disseminated in violation of that statute (peeping into room occupied by another) to file civil action for damages, which may include punitive damages. Also allows attorneys fees to victim. Effective December 1, 2003.



- 10. S.L. 2003-307 (S 775). Auto insurance prelitigation mediation.** Adds new GS 58-3-33 authorizing party claiming to be injured in auto accident involving nonfleet passenger vehicle to request that company providing insurance on defendant's vehicle provide limits of policy covering the vehicle. In making request, injured party consents to release of previous three years medical records and to prelitigation mediation of the claim upon the insurer's request. Insurer must provide limits within 30 days of the request. Adds new GS 7A-38.3A to establish procedure for the prelitigation mediation, using similar procedure to that used to mediated settlement conference under GS 7A-37.1. Effective Jan. 1, 2004, for claims arising on or after that date.
- 11. S.L. 2003-308 (H 1129). Service of Department of Labor notices of penalty.** GS Chapter 95 includes various provisions allowing the Comm'r of Labor to assess civil penalties for certain violations of labor laws. Allows Comm'r of Insurance to notify person charged with penalty by designated delivery service (as is authorized under Rule 4 of the Rules of Civil Procedure for service of process) as well as by certified mail. Effective July 1, 2003.
- 12. S.L. 2003-309 (S 1011). Liens on personal injury recovery.** Adds GS 44-50.1 to provide that notwithstanding any confidentiality agreement with regard to a personal injury settlement if provider of medical care who has filed lien for medical services against personal injury recovery is paid less than full amount of lien claimed, person distributing funds must provide lienholder with certification to demonstrate that distribution was pro rata and consistent with requirements of law including the total amount of settlement, total distribution to lienholders and percentage of each lien, and total attorney's fees. Requires lienholder to sign agreement to keep information confidential. Effective Oct. 1, 2003 and applies to any liens perfected on or after that date.
- 13. S.L. 2003-311 (H 1023). Auto insurance "stacking", underinsured coverage.** Amends GS 20179.21(b)(3) to provide that person injured by uninsured motorist who has insured multiple vehicles under one policy may not stack coverage limits for each of those vehicles, but if person is covered by uninsured coverage on more than one policy, those coverages may be stacked to determine total amount of uninsured coverage. Amends GS 20-279.21(b)(4) to provide that for underinsured motorist claims asserted by person injured in accident where more than one person injured, a vehicle is an "underinsured highway vehicle" if the total amount actually paid to that person under all policies at the time of the accident is less than the applicable limits of underinsured coverage for the vehicle and insured under the owner's policy. But a highway vehicle is not an "underinsured motor vehicle" under an owner's policy insuring the vehicle if the owner's policy insuring that vehicle provides underinsured motorist coverage with limits that are less than or equal to that policy's bodily injury liability limits. Effective Jan. 1, 2004 for accidents occurring on or after that date.
- 14. S.L. 2003-410 (S 919). Domestic violence protective order must require defendant to surrender firearms.** Adds G.S. 50B-3.1 to require protective order to order defendant to surrender firearms to the sheriff if the court finds one of the following factors: (1) use or threatened use of deadly weapon by defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons; (2) defendant has made threats to seriously injure or kill the aggrieved party or minor child; (3) defendant has made threats to commit suicide; or (4) defendant has inflicted serious injuries upon the aggrieved party or minor child. The judge or magistrate at the ex parte hearing must inquire of the plaintiff and at the 10-day hearing inquire of the defendant as to defendant's ownership of or access to firearms, ammunition and permits to purchase a

- firearm or to carry a concealed weapon. If one of the factors is found, the court must direct the surrender of firearms in the ex parte order or protective order and must inform the parties of the terms of the protective order. The defendant is required to surrender firearms when sheriff serves protective order or if they can't be surrendered at that time the defendant must surrender them within 24 hours at a time and place specified by the sheriff. The sheriff must store the firearms or contract with a licensed firearms dealer to store them and may charge a reasonable storage fee, which is transmitted to the county finance officer. However, the funds may be used only for administering this provision or other law enforcement purposes. The sheriff may not return the firearms, ammunition, or permits without a court order. Sets out a procedure for defendant to file a motion to request the return of surrendered property within a 90-day period after the current order has expired. Requires court to schedule a hearing and provide written notice to plaintiff and to the sheriff who has control of the property and require court at hearing to determine whether defendant is subject to any federal or state law that prohibits defendant from possessing firearm. Also specifies procedure for third party owner of firearm to reclaim firearm. Act does not apply to law enforcement officers and members of armed services possessing or using firearms for official use only. Effective December 1, 2003 for offenses committed on or after that date.
15. **S.L. 2003-337 (H 394). Clarify law regarding legal deadlines on a holiday.** Amends various sections in the General Statutes (including among others GS 103-5, Rule 6 of the Rules of Civil Procedure, foreclosure law, execution law, and judicial sales provisions) where the statute specifies that an act must be completed by a certain time but if that time falls on a Saturday, Sunday or legal holiday, the act may be completed by the end of the next day. Clarifies that legal holiday means "legal holiday when the courthouse is closed for transactions" to make it clear it does not apply to the entire list of legal holidays listed in GS Chapter 103, many of which are days that the courthouse is open. Effective Oct. 1, 2003 and applies to any act required or permitted by law to be done on or after that date.
16. **S.L. 2003-370 (S 847). Residential rental late fees amendment.** Amends GS 42-46, which sets limitation on late fees in residential rental agreements to modify the maximum late fees in weekly tenancies and in subsidized housing. Provides that for weekly rental payments, the maximum late fee is the greater of \$4 or 5% of the weekly installment. (Leaves maximum late fee for leases in which rent is paid monthly at greater of \$15 or 5% of the monthly rent.) For subsidized housing the 5% fee is calculated on the tenant's share of the contract rent only, and the rent subsidy may not be included in the calculation. Effective August 1, 2003.
17. **S.L. 2003-345 (S 716). Revised Uniform Arbitration Act adopted.** Repeals Art. 45A of Chapter 1 of the General Statutes and replaces it with the Revised Uniform Arbitration Act. Act provides for court involvement (in the context of this statute, court means judge) in the following manner: (a) Requires application for judicial relief is made by a motion to the court, with notice served under Rule 4 unless a pending civil action involving the agreement exists and specifies that venue is in the county in which the agreement to arbitrate specifies that the arbitration hearing is to be held or the county in which the hearing was held; otherwise venue is in the county in which an adverse party resides or has a place of business. (b) Provides for hearing of motion to compel or stay arbitration in accordance with agreement. (c) Provides arbitrator is not competent to testify regarding matter occurring during arbitration proceeding except in certain limited circumstances and allows judge to award attorney's fees and costs to arbitrator if sued when immune from liability or subpoenaed when incompetent to testify. (d) Sets out provision for court to enforce subpoena or discovery-related order issued by an arbitrator, including

- contempt authority. (e) Allows party to make a motion to the court for an order confirming an arbitration award, for an order vacating, modifying or correcting the award (the act specifies grounds for each). (f) Upon confirming, vacating, modifying or correcting an order, the court must enter a judgment in conformity with the order, which judgment is recorded, docketed and enforced as any other judgment in a civil action. (f) Court may award costs and attorney's fees in certain instances. Effective Jan. 1, 2004 and applies to agreements to arbitrate made on or after that date and to agreements made before that date if all parties to the agreement consent.
18. **S.L. 2003-381 (S 753). 12<sup>th</sup> Judicial District pilot program to deal with conflicting child custody orders.** Requires AOC to establish pilot program in 12<sup>th</sup> Judicial District to address conflicting child custody orders. Authorizes court that has jurisdiction over abused, neglected or dependent juvenile to (a) stay other civil action in NC in which custody of juvenile is an issue; (b) order that civil action for custody filed in 12<sup>th</sup> judicial district be consolidated with juvenile proceeding, and (c) order that custody action filed in another district in NC be transferred to 12<sup>th</sup> judicial district or order venue in the juvenile proceeding transferred to the district where the civil action is pending, after consulting with the court in which the civil action is filed. Provides that if there are two orders in NC, the order in the juvenile court controls as long as court retains jurisdiction in the juvenile proceeding. Court can also establish mechanism for determining legal status of juvenile, including a custody determination, after jurisdiction of juvenile court terminates. Requires AOC to evaluate program and report to General Assembly by beginning of 2005 session. Effective August 1, 2003 but expires June 30, 2005.
19. **S.L. 2003-371 (H 1126). Chapter 50 issues collaborative law settlement procedure.** Adds new GS 50-70 to -79 to set up procedure for collaborative law settlement agreement of all issues in a Chapter 50 action, except absolute divorce, without court intervention. Husband and wife and their attorneys may agree to use best efforts and make good faith attempt to resolve their disputes arising from the marital relationship on an agreed basis without judicial intervention, except to sign the orders to effectuate agreement. Parties and their attorneys can sign a collaborative law agreement, which indicates that they will attempt to resolve their marital issues under this procedure. Execution of a collaborative law agreement tolls all legal time limits (including statute of limitations and filing deadlines) with regard to legal rights and issues between the two parties for the amount of time the agreement remains in effect. If the parties reach agreement, they must sign a collaborative law settlement agreement indicating the terms of their agreement and then file a civil action, or make a motion in a pending action, for the entry of a judgment to effectuate the settlement. If the parties fail to reach a settlement, they may proceed by civil action; however, the attorneys representing the parties in the collaborative law proceedings may not represent the party in the civil action. Provides that personal representative may continue collaborative law procedure with respect to an equitable distribution that has been initiated before the death of one of the spouses. Effective Oct. 1, 2003.
20. **S.L. 2003-207 (S 315). Certain contracts by minors.** Adds new article 2 to GS Ch. 48A to regulate contracts involving minors who provide artistic, creative, or athletic services for compensation. It establishes a procedure for approval of a contract by the superior court, and requires creation of a trust for a portion of the minor's earnings. The trustee must account annually to the clerk for the trust's assets. Effective Jan. 1, 2004.

1. **S.L. 2003-13 (H 36). Clerk to hear sterilization proceeding.** Repeals Art. 7 of Chapter 35, providing for action before district court to authorize sterilization, and replaces it with new GS 35A-1245 creating a procedure before clerk to permit certain sterilizations. Prohibits guardian of the person from consenting to sterilization of mentally ill or mentally retarded ward without first obtaining an order from the clerk. The ward's guardian must petition the clerk for an order to permit the guardian to consent to the sterilization. Requires petition to include (a) sworn statement from physician licensed in NC who has examined ward that proposed procedure is medically necessary and not for sole purpose of sterilization or for the purpose of hygiene or convenience; (b) name and address of physician who will perform procedure; (c) sworn statement from psychiatrist or psychologist licensed in NC who has examined the ward as to whether the mentally ill or mentally retarded ward is able to comprehend the nature of the proposed procedure and its consequences and provide an informed consent to the procedure; and (d) if ward is able to meet conditions of (c) the sworn consent of the ward to the procedure. Requires petition to be served on the ward personally. If ward is unable to comprehend the nature of the proposed procedure and its consequences, requires clerk to appoint an attorney to represent the ward. Upon request of ward or ward's attorney, clerk must hold hearing at which guardian and ward may present evidence. Otherwise, clerk may enter order without appearance of witnesses. Effective April 17, 2003.
2. **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.
3. **S.L. 2003-225 (H 637). Settlor change trustee's 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 June 19, 2003.
4. **S.L. 2003-236 (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.
5. **S.L. 2003-255 (S 502). Safe deposit box access.** Amends GS 28A-15-13 to provide that a "deputy" may be appointed in writing by a lessee or cotenant of a safe deposit box and that deputy may have access to the safe deposit box without the presence of the clerk. Effective June 26, 2003.
6. **S.L. 2003-261 (H 656). Trust administration.** Amends various sections of Ch. 36A dealing with clerk's administration of trusts. Amends GS 36A-23.1 to specify that clerk

has original, exclusive jurisdiction over proceedings to permit a trustee to resign or renounce, but allows trustee to resign or renounce and have a successor named without clerk's approval if the instrument allows trustee to serve without accountings to clerk and the instrument provides for a procedure for trustee to be replaced. Amends GS 36A-24.1 to specify that venue in trust proceeding involving testamentary trust is county where trust has its principal place of administration, where the beneficiary resides or where the estate is being administered. Amends GS 36A-26.1 to clarify hearing procedure: provides that proceeding is begun by filing a petition; that a summons similar to a special proceedings summons must be issued (but matter is estate matter not special proceeding); that all trustees and interested persons (as defined in statute) not petitioners must be made respondents; that respondents have 10 days to respond to petition; that clerk must hold hearing, and that petitioner must give notice of date and time of hearing before clerk to respondents. Amends GS 36A-29 to specify that accountings are not required unless instrument requires them or they are otherwise required by law; this is true even if clerk appoints the trustee. Amends GS 36A-31 to modify provision regarding bond for trustee. Current law provides that trustee must provide a bond unless the trust instrument provides otherwise. Thus even if the instrument is silent, a bond is required. This bill provides that for testamentary trusts in a will executed on or after Jan. 1, 2004 or intervivos trusts created on or after that date, a trustee must give a bond only if the trust instrument requires one. Allows clerk to order bond for trusts created on or after Jan. 1, 2004 when the instrument is silent on request of beneficiary when request is reasonable or on clerk's own motion when necessary to protect interests of beneficiaries who are not able to protect themselves and whose interests are otherwise not adequately represented. However, clerk cannot require a bond of original trustee or trustee appointed by the clerk if the trust directs that no bond be required. Amends GS 36A-32 to allow clerk in appointing successor trustee to provide that successor trustee does not retain all the rights, duties, powers, privileges, liabilities and responsibilities of original trustee. Amends GS 36-107 to shift burden for when trustee under a testamentary trust may be required to account to the clerk. Current law requires accounting to clerk unless will provides otherwise. For testamentary trusts created under a will executed after Jan. 1, 2004, the clerk may not require the trustee, including one appointed by the clerk, to account to the clerk unless the will directs that the trustee shall be required to so account or unless otherwise required by law. Effective Jan. 1, 2004 and applies to all trusts as of that date, although some provisions, as noted, apply only to new trusts established after that date.

7. **S.L. 2003-295 (S 881). Permit payments from tobacco grower settlement without reopening closed estate.** Adds GS 28A-21-3.1 to provide that personal representative of estate of decedent who is eligible to receive funds from National Tobacco Grower Settlement Trust (tobacco grower or quota owner during 1993 or subsequent years) may file with the final account a list of Phase II distributees for Phase II payments under the settlement if (a) there are no unsatisfied creditors, (b) there are no unsatisfied general monetary bequests, and (c) all assets other than any potential Phase II payments have been distributed. The list signed under oath must contain the names and address of the personal representative; the name and social security number of the decedent; the name and address, if known, of each devisee or heir to receive Phase II payments and the percentage of the payments to be received by each. Requires clerk to review list to determine if distributees and their share of payments are in accordance with will or the Intestate Succession Act, if no will. Upon approval, list is prima facie evidence of its correctness and Phase II payments may be made directly to distributees without reopening the estate. Specifies that closed estate may be reopened for the purpose of

- filing a list of Phase II distributees. Effective July 4, 2003 and applies to payments made on or after that date.
8. **S.L. 2003-296 (H 807). Clarify law on claiming of elective share by surviving spouse.** Clarifies that death taxes are taken into account as claim against the estate under "total net assets" only to the extent that assets do not qualify for estate tax marital deduction and the amount of claim is the difference between taxes amount of death taxes that are determined and the amount that would have been determined if all assets had qualified for marital deduction. Adds definition of "nonadverse trustee" and more specifically states when entire fair market value of property held in trust for surviving spouse by nonadverse trustee is counted as property passing to surviving spouse. Specifies that written waiver that would have been effective to waive the right of a spouse to dissent from a will is effective to allow a spouse to waive the right to claim an elective share. Provision regarding waivers effective July 4, 2003; remaining provisions effective January 1, 2004 for estates of decedents dying on or after that date.
  9. **S.L. 2003-336 (H 944). Require unclaimed vehicle report before garageman can collect storage fees.** GS 20-77(d) requires operator of place of business for storing, repairing or parking vehicles in which vehicle remains unclaimed for 10 days or landowners upon whose property a motor vehicle has been abandoned for more than 30 days to make unclaimed vehicle report to DMV within 5 days after expiration of period listed above. Garageman then sells motor vehicle under GS Chapter 44A lien provisions. This bill provides that a garageman who fails to file an unclaimed vehicle report may not collect storage charges for the period of time between when they were required to file the report and when they actually did send the report to DMV by certified mail. Effective Oct. 1, 2003.
  10. **S.L. 2003-207 (S 315). Certain contracts by minors.** Adds new article 2 to GS Ch. 48A to regulate contracts involving minors who provide artistic, creative, or athletic services for compensation. It establishes a procedure for approval of a contract by the superior court, but regardless of whether such approval obtained, parent or guardian (or trustee if court has approved contract) must establish trust with at least 15% of minor's earnings. The trustee must account annually to the clerk for the trust's assets. Effective Jan. 1, 2004.

#### 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. 2003-140 (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.

4. **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.

### 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. 2003-56 (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 20, 2003.
3. **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.
4. **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.
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 2003-226 (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.
7. **S.L. 2003-276 (H785). Subpoena law revision.** Rewrites GS 1A-1, Rule 45. New rule provides that each subpoena is to contain specified information (case file, name, issuing party, etc), scope of subpoena (for testimony or for records, etc.); protections to people subpoenaed and required responses. Specifies that subpoena must be issued by court in

which case pending. Directs clerk to issue blank, signed subpoena to party requesting it. Service is to be by sheriff, coroner, or any non-party over 18. Personal service required, except that sheriff or coroner may use telephone; copies must be sent (as provided in Rule 5) to witnesses in civil actions, but not criminal actions. Directs party seeking subpoena to try to avoid imposing undue burden on person subpoenaed, and authorizes judges to sanction violations, which may include attorneys fees and lost earnings. Allows custodians of public or hospital records to submit records by mail, and may certify to the correctness of the records by affidavit, which is admissible in evidence. Hospital medical records are not subject to inspection by non-parties until offered in evidence. Specifies grounds for objecting to subpoena (must be done within 10 days of service, or before date of appearance if less than 10 days): Insufficient time to comply; privilege is applicable; undue burden; unreasonable or oppressive; or procedurally defective. Requires objection to provide specific basis for objection. If objection filed in writing, subpoena not valid unless court overrules the objection. Also allows person subpoenaed to seek to quash subpoena. If order to compel production is issued, court must protect person providing testimony from incurring significant expense; the court may order the witness to be compensated. Allows court to quash subpoena that would disclose trade secrets, or in the alternative if the information is necessary and not otherwise available, to allow testimony with appropriate protections to preserve trade secrets. Allows court quashing a subpoena to order party issuing subpoena to pay attorneys fee and reasonable expenses of witness. Also allows court to find in contempt or in violation of Rule 37(d) any person who does not obey subpoena. Sanctions may include attorneys fee if objection or motion to quash is made to delay proceedings or other improper purpose. Effective Oct. 1, 2003, and applies to pending actions.

8. **S.L. 2003-284 (H 397). State budget.** In addition to various appropriations, makes some statutory and other changes as follows: (1) Amends GS 7A-455.1 to eliminate the option of making partial payments of \$50 fee for appointment of attorney in indigent defense cases. (2) Amends GS 7A-38.7 to require that \$60 fee for mediation of criminal cases assigned to dispute settlement centers be imposed for each mediation in the case and that center must attach the receipt for the fee to any dismissal form submitted to the DA. (3) Amends GS 7A-41 to divide superior court district 19B into districts 19B and 19D, with Montgomery and Randolph constituting 19B and Moore constituting 19D. Assigns sitting judges to each district based on their current residence; this provision effective Dec. 1, 2003. (4) Amends GS 7A-38.6 to require reports from dispute settlement centers to AOC to include docket numbers of any court cases that are mediated by the center. (5) Sets fee that counties are paid by Dep't of Correction to house prisoners for whom state assumes responsibility at \$40 per day. (6) Requires studies and/or reports to legislature on several topics, including probation caseloads, collection of money ordered by court in probation cases, community service program, and electronic monitoring program. (7) Amends GS 7A-102 to give clerks of court authority to appoint employees at rate higher than the statutory minimum salary, with AOC approval. (8.) Amends GS 7A-65 and -498.7 to make previous kinds of service that qualifies for longevity credit for DA, ADA, PD, and APD the same for all offices—judges, clerk, DA, ADA, PD, APD, appellate defender or assistant appellate defender. (8) Amends GS 7A-304 to reduce criminal court costs paid to law enforcement retirement and to increase court of justice fee by \$1. (9) Amends GS 7A-37.1 to assess \$100 fee for case assigned to arbitration. Effective August 1, 2003. (10) Amends GS 7A-308 to round up various miscellaneous fees (typically from \$7.50 to \$10). Effective August 1, 2003. (11) Authorizes AOC to designate up to four judicial districts to conduct pilot in civil case



- assignment using assignments of cases to individual judges or sessions of court in the district or the superior court, considering the nature of the case, the amount in controversy, the complexity of the issues, the likelihood of settlement, the availability and suitability of alternative dispute resolution programs, and any other appropriate factors relevant to just resolution of the cases and efficient use of court resources. Cases may be sent to appropriate means of alternative dispute resolution, without regard for whether case is in superior or district court.. Expires June 30, 2005. (12) Effective Aug. 1, 2003, amends GS 7A-37.1 to add \$100 for all cases assigned to arbitration program under that section. Fee to be shared equally among parties. (13) Except as otherwise provided, effective July 1, 2003.
- 9. S.L. 2003-342 (H 743). Testimonial privilege for nurses.** Adds GS 8-53.13 to grant to nurses a testimonial privilege like the physician-patient privilege. Nurse not required to testify about any information acquired in rendering professional nursing services if information necessary to render those services. Judge may override privilege and compel disclosure if necessary to the proper administration of justice as long as disclosure is not prohibited by another statute. Effective Oct. 1, 2003.
- 10. S.L. 2003-381 (S 753). Certain clerks meet qualification for appointment as magistrate.** Amends GS 7A-171.2(b) to provide that a person with at least 8 years experience as the clerk of superior court in NC is eligible to be nominated as a magistrate, without having to meet the usual educational requirements. Effective August 1, 2003.