**Additional 2019 Legislation Affecting Criminal Law and Procedure**John Rubin (with thanks to the AOC Office of Legal Counsel)
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[**S.L. 2019-70**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-70.pdf) **(H 934): Stem cells.** Effective for acts committed on or after December 1, 2019, new G.S. 90-325.14 makes it a Class A1 misdemeanor to knowingly offer to buy, offer to sell, acquire, receive, sell, or otherwise transfer any adult stem cells for valuable consideration for use in an investigational adult stem cell treatment.

[**S.L. 2019-169**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-169.pdf) **(S 523): Venue for violations of tax laws.** Effective for offenses committed on or after December 1, 2018, amended G.S. 105-236(b) deletes the provision that a criminal violation of a tax law is in the county where the charged offense occurred. With this change, a violation of a tax law is considered an act committed in part at the office of the Secretary of Revenue in Raleigh.

[**S.L. 2019-174**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-174.pdf) **(H 675): Falsely claiming to be licensed as a general contractor.** Effective for offenses committed on or after October 1, 2019, the act expands G.S. 87-13 to make it a Class 2 misdemeanor to falsely claim or suggest in connection with any business activities regulated by the State Licensing Board for General Contractors that a person, firm, or corporation is so licensed.

[**S.L. 2019-182**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-182.pdf) **(S 290): Sale and consumption of alcohol at bingo games.** Effective for offenses committed on or after September 1, 2019, the act repeals G.S. 18B-308, which had made it unlawful to sell or consume alcohol at bingo games.

[**S.L. 2019-191**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-191.pdf) **(H 228): Sexual acts during medical treatment, other medical practice crimes, and evidentiary privileges.** Effective for offenses committed on or after December 1, 2019, new G.S. 14-27.33A creates the crime of sexual contact or penetration, as defined in the statute, under the pretext of medical treatment or while the patient is incapacitated. The statute provides a person is guilty of a Class C felony unless some other provision of law provides greater punishment; it also states that the statute does not prohibit a charge, conviction, or punishment of any other violation of law committed by that person while violating the statute.

Effective for offenses committed on or after October 1, 2019, the act amends several licensing statutes (G.S. 90-12.1A through 90-12.4B) to make violations punishable by a fine up to $500 (was, $25 to $50).

Effective October 1, 2019, amended G.S. 8-53 privileges information obtained by a person authorized to practice under G.S. Ch. 90, Art. 1 (was, authorized to practice physic or surgery) when attending a patient in a professional character and when necessary to enable the person to prescribe for the patient as a physician or do any act for the patient as a surgeon.

[**S.L. 2019-239**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-239.pdf) **(S 683): Absentee ballot crimes.** Effective for offenses committed on or after December 1, 2019, the act amends G.S. 163-237 to increase the punishment for existing absentee ballot crimes from a Class 2 to Class 1 misdemeanor and adds six new felony offenses.

[**S.L. 2019-240**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-240.pdf) **(S 537): Special police officers at State facilities; denial of social work certificate or license; criminal history record checks for child care institutions.** As part of a larger act dealing with the Department of Health and Human Services (DHHS), the act amends G.S. 122C-183, effective November 6, 2019, to authorize the Secretary of DHHS to assign special police officers employed at a State facility to other State-operated facilities on a temporary basis. When so assigned, the special police officers have the same powers at the facility and in the county in which the facility is located as authorized for other officers at that facility. *See* G.S. 122C-421, 122C-430, 122C-430.10, 122C-430.30.

Effective January 1, 2021, amended G.S. 90B-11 authorizes the North Carolina Social Work Certification and Licensure Board to deny, suspend, or revoke an application, certificate or license based on a conviction involving moral turpitude, misrepresentation or fraud in dealing with the public, conduct otherwise relevant to fitness to practice social work, or any misdemeanor reflecting inability to practice social work (was, misdemeanor under G.S. Ch. 90B). This provision may conflict with[S.L. 2019-91](file:///%5C%5Cstorage.unc.edu%5Csog%5Csog_users%5Cjrubin%5CCurrent%20Projects%5CLegislation%5C2019%5CS.L.%202019-91%20%28H%20770%29%3A) (H 770), discussed above, which authorizes of an occupational license on the basis of a criminal conviction only if the conviction is “directly related” to the licensed occupation and which prohibits the denial of a license based on a determination that a conviction is for a crime of moral turpitude.

Effective November 6, 2019, and applicable to employees, volunteers, and applicants on or after that date, new G.S. 108A-133 requires a criminal history record check of all current employees and volunteers, applicants for employment, and individuals wishing to volunteer at a child care institution as defined by Title IV-E of the Social Security Act. An offer of employment or acceptance as a volunteer is conditioned on consent to a state and national criminal history check. If the record check reveals one or more convictions of a “relevant offense,” the Criminal Records Check Unit of DHHS considers several factors in determining whether to recommend that the person be hired or allowed to volunteer. New G.S. 108A-133(e) defines “relevant offense” as a misdemeanor or felony that bears on a person’s fitness to have responsibility for the safety and well-being of children; it provides that such offenses include offenses in numerous articles of the General Statutes. *But see* [S.L. 2019-91](file:///%5C%5Cstorage.unc.edu%5Csog%5Csog_users%5Cjrubin%5CCurrent%20Projects%5CLegislation%5C2019%5CS.L.%202019-91%20%28H%20770%29%3A) (H 770), discussed above. New G.S. 143B-972 authorizes the Department of Public Safety to provide these record checks to DHHS. An applicant for employment or to be a volunteer who willfully furnishes false information on an employment application that is the basis for a criminal history record check is guilty of a Class A1 misdemeanor.

[**S.L. 2019-241**](https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2019-241.pdf) **(S 433): Conversion of Class 3 misdemeanors at State Parks into infractions.** Effective for offenses committed on or after December 1, 2019, the act revises G.S. 143B-135.16 to convert several Class 3 misdemeanors at State Parks into infractions, including such matters as using skateboards in prohibited areas, bathing animals, and parking motor vehicles outside of designated areas.