2024 Legislation Affecting Criminal Law and Procedure

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Below are summaries of 2024 legislation affecting criminal law, criminal procedure, and motor vehicle law. To obtain the text of the legislation, click on the link provided below or go to the General Assembly's website, www.ncleg.gov. Be careful to note the effective date of each piece of legislation.

1) S.L. 2024-11 (H 124)**: Residential roof replacement or repair contracts**. Effective for contracts entered into on or after October 1, 2024, section 1 of this act creates new subsection (b1) under G.S. 14-401.13, providing that contracts for residential roof replacement or repair must be subject to a five-business day cancellation period following an insurance claim denial for the work to be performed under the contract. During this time, the seller cannot work on the roof replacement or repair until the five-business day cancellation period has expired. If the residential roofing contractor must perform emergency services to prevent further damage, then the residential roofing contractor is entitled to collect the amount due for the services rendered. However, the contractor must have an acknowledgment, in writing, that these services must be performed to prevent further damage. A violation of this provision is a Class 1 misdemeanor. Section 1 of this act also amends G.S. 14-401.13(c) to define "residential roof replacement and repair services" and to expand the definition of "consumer goods or services" and "seller."

2) S.L. 2024-16 (H 237)**: Wearing a mask in public.** Under Article 4A of G.S. Chapter 14, it is generally a crime for an individual to wear a mask in public. G.S. 14-12.11(a) lists several exemptions from those provisions. Effective for offenses committed on or after June 27, 2024, section 1 of this act modifies G.S. 14-12.11(a)(6) to exempt any person wearing a medical or surgical grade mask for the purpose of preventing the spread of contagious disease. The previous version of this exemption applied to "any person wearing a mask for the purpose of ensuring the physical health or safety of the wearer or others."

   Section 1 of this act also amends G.S. 14-12.11(c) to require a person subject to the "medical or surgical grade mask" exemption to (i) remove the mask upon request by a law enforcement officer, or (ii) temporarily remove the mask upon request by the owner or occupant of public or private property to allow for identification of the wearer.

   Sentence enhancement for wearing a mask. Effective for offenses committed on or after June 27, 2024, section 2 of this act enacts new G.S. 15A-1340.16G, establishing a new sentencing enhancement for a person who wears a mask or other clothing to conceal or attempt to conceal the person's identity during the commission of a crime. If a person is convicted of a

[1] Special thanks to Sheridan King, a third-year law student at the North Carolina Central University School of Law, for her significant contributions to the preparation of these summaries.

misdemeanor or felony and it is found that the person wore a mask or other clothing to conceal or attempt to conceal the person's identity at the time of the offense, then the person would be guilty of a misdemeanor or felony that is one class higher than the underlying offense for which the person was convicted. If the person would be eligible for active punishment based on the offense class and the person's prior record level, then the court must order a term of imprisonment.

An indictment or information must allege the facts that qualify the offense for an enhancement under this provision, and the state must prove those facts beyond a reasonable doubt during the trial for the underlying offense. If the person pleads guilty or no contest to the offense but pleads not guilty to the facts surrounding the enhancement, then a jury must be impaneled to determine the issues. The sentencing enhancement does not apply if wearing a mask to conceal the person's identity is an element of the underlying offense.

Obstruction of highways. Effective for offenses committed and causes of action arising on or after December 1, 2024, section 4 of this act amends G.S. 20-174.1 to create new criminal penalties for standing, sitting, or lying on highways. Under the existing law, a person who willfully stands, sits, or lies on the highway or street that impedes the regular flow of traffic is guilty of a Class 2 misdemeanor. Under the newly expanded law, if this act is committed during a demonstration, a person is guilty of a Class A1 misdemeanor for a first offense and a Class H felony for a second subsequent offense. If this act is committed in such a way that obstructs an emergency vehicle from accessing the highway or street, a person is guilty of a Class A1 misdemeanor.

Additionally, a person who organizes a demonstration that prohibits or impedes the use of a highway or street is civilly liable for injury to or death of any person resulting from delays caused by the obstruction of an emergency vehicle in violation of this statute. An action may be brought under this provision regardless of whether a criminal action is brought or a criminal conviction is obtained for the conduct alleged in the civil action.

3) **S.L. 2024-17 (H 834): Juvenile law changes.** Effective for offenses committed on or after December 1, 2024, this act makes several changes to laws related to juvenile delinquency.

Delinquent juvenile. Effective for offenses committed on or after December 1, 2024, section 1 of this act amends G.S. 7B-1501(7)(b) to remove Class A – Class E felony offenses committed at the age of 16 and 17 from the definition of delinquent juvenile. The exclusion includes all offenses that are transactionally related to the Class A – Class E felony offense.

Transfer process for indicted juvenile cases. Section 2.(a) of the act amends G.S. 7B-1808(a) to require a first appearance in juvenile court following the removal of a case from superior court to juvenile court.

Section 2.(b) of the act amends G.S. 7B-1906(b2) is amended to require a hearing to determine the need for continued secure custody within 10 calendar days of the issuance of a secure custody order in a matter that is removed from superior court to juvenile court.

Section 2.(c) of the act restructures G.S. 7B-2200 to describe the current transfer process for felony offenses, other than Class A felonies, alleged to have been committed at age 13, 14 or 15 as discretionary transfer and to describe the current transfer process for Class A felony offenses alleged to have been committed at ages 13, 14, or 15 as mandatory transfer. The act also adds new G.S. 7B-2200(c) to allow for remand of cases from superior court to juvenile court after transfer occurred in cases in which a felony is alleged to have been committed at ages 13, 14, or 15. The case must be remanded to district court upon joint motion of the prosecutor and the juvenile's attorney. The prosecutor must provide the chief court counselor or their designee with a copy of the joint motion before submitting the motion to the court. The superior court must expunge the superior court record at the time of remand. The superior court may also issue a secure custody order at the time of remand if the juvenile meets the criteria for secure custody in G.S. 7B-1903. The prosecutor must provide a copy of any such secure custody order to the chief court counselor as soon as possible and no more than 24 hours after the order is issued.

Section 2.(d) of the act amends G.S. 7B-2200.5 is amended to remove Class A – E felonies alleged to have been committed at ages 16 and 17 from the procedure to transfer cases from juvenile jurisdiction to superior court for trial as an adult. Language governing the timing of probable cause hearings in cases that remain subject to the mandatory transfer procedure for Class F and Class G felonies alleged to have been committed at ages 16 and 17 is removed from this statute.

Section 2.(e) of the act amends G.S. 7B-2202(a) to exclude juvenile cases that were removed from superior court to juvenile court from a probable cause hearing in juvenile court. The act also adds new subsection G.S. 7B-2202(b1) providing that a probable cause hearing must be held in any matter subject to mandatory transfer within 90 days of the juvenile's first appearance. The probable cause hearing may be continued for good cause.

Section 2.(f) of the act creates new G.S. 7B-2202.5 to require an indictment return appearance in juvenile court within five business days of the date a true bill of indictment is returned in a matter subject to mandatory transfer. The prosecutor must immediately notify the district court if a true bill of indictment is returned in a matter subject to mandatory transfer. The court must calendar the matter for an appearance within five business days of the date that the indictment was returned. At the appearance, the court must determine if notice of a true bill of indictment charging the commission of an offense subject to mandatory transfer was provided in accordance with G.S. 15A-630. If the court finds that notice was provided, the court must transfer the matter to superior court for trial as an adult and determine conditions of pretrial release as required by G.S. 7B-2204.

Section 2.(g) of the act amends G.S. 7B-2603 to remove the right to an interlocutory appeal of a transfer order in cases subject to mandatory transfer. Issues related to mandatory transfers can be appealed to the Court of Appeals only following conviction in superior court.

New process to remove cases to juvenile court. Section 3.(a) of the act amends G.S. 7B-1902 to provide authority for a superior court judge to issue a secure custody order when the superior court orders removal of a case to juvenile court.

Section 3.(b) of the act adds new G.S. 15A-960 to create a process for removal of cases in which a Class A – Class E felony is alleged to have been committed at age 16 and 17 from superior court to juvenile court. Removal is required on the filing of a joint motion by the prosecutor and the defendant's attorney. The motion can be filed any time after an indictment is returned or a criminal information is issued and before the jury is sworn and impaneled. The prosecutor must provide a copy of the joint motion to the chief court counselor or their designee before submitting the motion to the court. The removal order must be in writing and require the chief court counselor or their designee to file a juvenile petition within 10 calendar days after removal is ordered. The superior court record must be expunged according to G.S. 15A-145.8 at the time of removal. The superior court may issue an order for secure custody at the time of removal upon the request of the prosecutor and if the defendant meets the criteria to issue a secure custody order in G.S. 7B-1903. The prosecutor must provide the chief court counselor or their designee with a copy of any secure custody order issued at removal as soon as possible and no more than 24 hours after the order is issued.

Section 3.(c) of the act amends G.S. 15A-145.8 to apply the same expunction process in place for cases that are remanded from superior court to juvenile court to cases that are removed from superior court to juvenile court.

School use of information. Section 4.(a) of this act amends G.S. 7B-3101 to restrict school notification of the filing of a petition in a delinquency matter to cases that allege a Class A – Class E felony if committed by an adult. Language that prohibits an automatic suspension policy related to this notification is added. The principal is required to make an individualized decision related to the status of the student during the pendency of the delinquency matter.

Section 4.(b) of the act amends G.S. 115C-404(b) to prohibit an automatic suspension policy related to juvenile court information received either as a felony notification under G.S. 7B-3101 or information gained from the examination of juvenile records under G.S. 7B-3100. The principal is required to make an individualized decision related to the status of the student during the pendency of the delinquency matter.

Secure custody hearing. Section 5 of the act amends G.S. 7B-1906(b) to require hearings on the ongoing need for secure custody every 30 days in all delinquency cases. Parties can request and the court can order an earlier hearing. Earlier hearings must be scheduled within 10 calendar days of the request for the earlier hearing.

Juvenile capacity. Effective for offenses committed on or after January 1, 2025, section 7 of the act amends G.S. 7B-2401.4(f)(3) to require good cause to grant an extension of remediation. Also effective for offenses committed on or after January 1, 2025, section 9 of the act amends G.S. 7B-2401.5 to prohibit placement of a juvenile in a situation where that juvenile will come into contact with adults for any purpose when the juvenile is subject to involuntary civil commitment.

Certain dispositional alternatives. Section 10 of the act amends G.S. 7B-2506(4) and G.S. 7B-2506(22) to allow, but not require, joint and several responsibility for all participants in an offense that resulted in loss or damage to a person when restitution is ordered.

Solicitation to commit a crime. Section 11 of this act amends G.S. 14-2.6 to specify that the penalties for solicitation apply to an adult or minor who solicits another person who is an adult to commit a criminal offense. The act also creates new subsections applicable to minors who solicit other minors to commit a criminal offense. Unless a different classification is expressly stated, a minor who solicits another minor to commit a crime is punished as follows:

OFFENSE MINOR SOLICITED TO COMMIT:	PUNISHMENT FOR MINOR WHO ENGAGED IN THE SOLICITATION:
FELONY (GENERALLY)	A felony that is two classes lower than the felony the minor solicited the other minor to commit
CLASS A OR CLASS B1 FELONY	Class C felony
CLASS B2 FELONY	Class D felony
CLASS H FELONY	Class 1 misdemeanor
CLASS I FELONY	Class 2 misdemeanor
MISDEMEANOR	Class 3 misdemeanor

Number of days for request for review by a prosecutor. Section 11.5 of the act amends G.S. 7B-1704 to increase the number of days a complainant and a victim have to request prosecutor review of the decision of the juvenile court counselor not to file a petition in a delinquency matter. The number of days is increased from five days from receipt of the juvenile court counselor's decision not to approve the petition for filing to 10 days. The district attorney may waive this time limit.

Note: This summary was provided, in large part, by faculty member Jacquelyn Greene. For further discussion, see Jacquelyn Greene, *Change to the Law of Juvenile Jurisdiction and Juvenile Transfer to Superior Court*, N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (July 23, 2024); Jacquelyn Greene, *Changes Coming to Delinquency Law*, N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Aug. 27, 2024).

4) **S.L. 2024-22 (H 495): Money laundering.** Effective for offenses committed on or after December 1, 2024, section 1 of this act creates new G.S. 14-118.8 to criminalize money laundering. The statute defines relevant terms including "criminal activity," "funds," "proceeds of criminal activity," and "transaction." Under the new statute, a person commits the offense of money laundering if the person or organization knowingly and willfully does any of the following involving proceeds of criminal activity or funds that alone or aggregated exceed ten thousand dollars ($10,000):

(1) Acquires or maintains an interest in, conceals, possesses, transfers, or transports the proceeds of criminal activity.
(2) Conducts, supervises, or facilitates a transaction involving the proceeds of criminal activity.
(3) Invests, expends, or receives, or offers to invest, expend, or receive, the proceeds of criminal activity or funds that the person believes are the proceeds of criminal activity.
(4) Finances or invests, or intends to finance or invest, funds that the person believes are intended to further the commission of criminal activity.
(5) Uses, transports, transmits, or transfers; conspires to use, transport, transmit, or transfer; or attempts to use, transport, transmit, or transfer the proceeds of criminal activity to conduct or attempt to conduct a transaction or make other disposition with the intent to conceal or disguise the nature, location, source, ownership, or control of the proceeds of criminal activity.
(6) Uses the proceeds of criminal activity with the intent to promote, in whole or in part, the commission of criminal activity.
(7) Conducts or attempts to conduct a transaction involving the proceeds of criminal activity, knowing the property involved in the transaction constitutes proceeds of criminal activity with the intent to avoid a transaction reporting requirement under federal law.

If the value of the proceeds or funds is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony. If the value of the proceeds or funds is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the proceeds of criminal activity are related to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the value of the proceeds may be aggregated in determining the classification of the appropriate punishment. Each violation of the statute constitutes a separate offense and cannot be merged with any other offense. Each county where a part of the offense occurs shall have concurrent venue.

Knowledge of the nature of the criminal activity giving rise to the proceeds is required to establish a culpable mental state under this statute. It is a defense to prosecution that the person acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose pursuant to the laws of North Carolina or laws of the United States. Notwithstanding any provision of law to the contrary, a financial institution, or an agent of the financial institution, acting to facilitate the lawful seizure, forfeiture, or disposition of funds is not liable for civil damages to a person who (i) claims an ownership interest in funds involved in money laundering or (ii) conducts with the financial institution or insurer a transaction concerning funds involved in money laundering.

A person who conspires to commit the offense is punished as a principal, and all other provisions of the statute apply to that offense. It is not a defense to conspiracy to commit money laundering that the person with whom the defendant is alleged to have conspired was a law enforcement officer or a person acting at the direction of a law enforcement officer that represented to the defendant that the funds are proceeds of or are intended to further the commission of criminal activity.

All property of every kind used or intended for use in the course of, derived from, maintained by, or realized through a commission of the offense is subject to forfeiture under the procedure set forth in either G.S. 14-2.3 or G.S. 75D-5.

Larceny revisions. Effective for offenses committed on or after December 1, 2024, section 2 of this act makes several revisions to certain larceny laws.

- Organized retail theft: The act removes the term "retail property fence" from G.S. 14-86. The act amends G.S. 14-86.6 to expand the conspiracy to steal from retail establishments provision of the offense to include people who conspire with others to transfer or possess (in addition to those who conspire to sell) retail property for monetary or other gain. It removes the requirement that the person also has to take or cause that retail property to be placed in the control of a retail property fence or other person in exchange for consideration. The act also expands the conspiracy to steal from a merchant provision to include a scheme course of conduct with the *intent* to effectuate the transfer or sale of property stolen from a merchant.

- Shoplifting: Section 2.(c) of the act expands G.S. 14-72.1(d) to include illegal transfers of product codes or other pricing mechanisms. This section of the act enacts new G.S. 14-72.1(d2) to criminalize the act of switching a price tag in a way that results in a more than a $200 difference between the actual price of the item and the price listed on the new price tag. Violation of this provision is a Class H felony. Mere possession of the item or the production by shoppers of improperly priced merchandise for checkout cannot constitute prima facie evidence of guilt for this offense.

- Larceny from a merchant: Section 2.(d) of the act amends G.S. 14-72.11 by defining the phrase "antishoplifting or inventory control device." It also removes subsection (3), which previously prohibits the affixation of a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price. The act adds three new subsections which describe new actions that constitute the offense: fraudulently creating a price tag for an item, fraudulently affixing a price tag to an item, and presenting an item for purchase with a fraudulent price tag. The statute is also amended to clarify that the phrase "product code or other pricing mechanism" is defined as any means used by a merchant to designate or identify the price of an item by a person or a merchant and includes, but is not limited to, a price tag, a Universal Product Code (UPC), or a Quick Response (QR) Code. For further discussion, see Brittany Bromell, *Legislative Amendments to Larceny Laws*, N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (August 6, 2024).

5) S.L. 2024-26 (H 971), as amended by S.L. 2024-33 (S303): Human trafficking. This act makes changes to several laws related to human trafficking.

Solicitation of a prostitute. Effective for offenses committed on or after December 1, 2024, section 4 of this act amends G.S. 14-205.1 to increase the punishment for a first offense for

soliciting a prostitute from a Class 1 misdemeanor to a Class I felony. The statute is also amended to clarify that the punishment does not apply to the person engaging in prostitution as defined in G.S. 14-203(5).

Victim confidentiality. Effective for offenses committed or causes of action on or after October 1, 2024, section 5 of this act amends G.S. 14-43.17 by creating new subsection (e), which allows a victim or alleged victim in a criminal case, or their parent, guardian, or counsel if they are under age 18, to file a motion for victim confidentiality in the criminal case with the trial court in which the case was most recently pending. For cases that have not yet been disposed, the court must set a hearing date for the motion within 10 business days of its filing. For cases that have previously been disposed, the court must set a hearing date for the motion within 20 days business days of the motion's filing. The victim, State, and defendant each has the right to be heard at the hearing.

In ruling on a motion for victim confidentiality, the court must consider, at a minimum, each of the following:

(1) All information provided in writing or oral testimony by the victim or alleged victim, the State, or the defendant.
(2) The negative impacts, if any, upon the victim or alleged victim if the motion is denied.
(3) The negative impacts, if any, to the rights of the State or defendant if the motion is granted.
(4) Any impact prejudicial to justice that may result if the motion is granted or denied.
(5) The press' and the public's right of access to criminal case files.

If the court grants the motion for victim confidentiality, the victim retains all of the protections given to victims under G.S. 14-43.17(a), but nothing restricts the court, State, or defendant from accessing this information during the pendency of the case or for the purposes of appeal. The granted motion applies only to information within the file of the criminal case pursuant to which the motion was filed and requires specifying which information will be confidential.

New subsection (f), as amended by S.L. 2024-33 (S 303) [section 26], provides that the Administrative Office of the Courts, the Clerks of Superior Court, and their officials and employees are not subject to civil or criminal liability for any acts or omissions that lead to the disclosure of information ordered confidential pursuant to the new provision.

Criminal history in child custody pleadings. Effective December 1, 2024, section 6 of this act amends G.S. 50-13.1 to require disclosure of the following criminal convictions in child custody pleadings: a sexually violent offense as defined in G.S. 14-208.6(5); a human trafficking offense as defined in G.S. 14-43.11; an involuntary servitude offense as defined in G.S. 14-43.12; a sexual servitude offense as defined in G.S. 14-43.13; and the sexual exploitation of a minor as defined in G.S. 14-190.16, 14-190.17, or 14-190.17A.

Accessing computers. Effective October 1, 2024, section 7 of this act amends G.S. 14-456 (denial of computer services to an authorized user) and G.S. 14-456.1 (denial of government computer services to an authorized user) to specify that neither of the statutes apply to denial

of pornographic viewing as required by new G.S. 143-805. For more on new G.S. 143-805, see Kristi Nickodem, *New Law Regarding Pornography on Government Networks and Devices*, N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (July 30, 2024).

6) **S.L. 2024-30 (H 199): Littering.** Effective for offenses committed on or after December 1, 2024, section 28 of this act amends G.S. 14-399 to lower the thresholds and increase the penalties for littering. In addition to the changes noted in the table below, any violation of G.S. 14-399 involving the disposal of litter into the waters of the State is punished as intentional or reckless littering under G.S. 14-399(a).

Offense	Weight of Litter	Minimum Fine	Maximum Fine	Additional Penalties
Intentional or reckless littering for noncommercial purposes [G.S. 14-399(a)]	Not more than ~~15~~ 10 pounds	~~$250~~ $500	$1,000	~~$500 to $2,000~~ $1,000 to $3,000 fine for subsequent violations
Intentional or reckless littering for commercial purposes [G.S. 14-399(a)]	Between ~~15~~ 10 and 500 pounds	~~$500~~ $1,000	~~$2,000~~ $3,000	Permissible community service range is ~~24~~ 50 to 100 hours
Intentional or reckless littering more than 500 pounds for noncommercial purposes or any amount for commercial purposes [G.S. 14-399(a)]	More than 500 pounds for noncommercial purposes Any amount for commercial purposes	$5,000	$5,000	Mandatory imposition of at least 100 hours of community service, picking up litter if feasible, and if not feasible, performing other community service commensurate with the offense
General littering [G.S. 14-399(a1)]	Not more than ~~15~~ 10 pounds	None	~~$100~~ $200	Maximum ~~$200~~ $500 fine for subsequent violations
General littering [G.S. 14-399(a1)]	Between ~~15~~ 10 and 500 pounds	None	~~$200~~ $500	Permissible community service range is ~~8~~ 24 to ~~24~~ 50 hours
General littering [G.S. 14-399(a1)]	More than 500 pounds	None	~~$300~~ $2,500	~~Permissible~~ Mandatory imposition of at least ~~16~~ 50 hours of community service, picking up litter if feasible, and if not feasible, performing other community service commensurate with the

				offense

7) S.L. 2024-31 (H 900): **Regulation of tobacco products.** Effective December 1, 2024, section 2.(a) of this act amends G.S. 14-313, which governs youth access to tobacco products. The amended statute adds definitions for relevant terms including "alternative nicotine product," "consumable product," and "timely filed premarket tobacco product application." The act removes the defined term "tobacco derived product" and all references to the term, replacing them with "alternative nicotine product." It expands the definition of "tobacco product" to include an alternative nicotine product and a consumable product. The act removes outdated language regarding the removal of vending machines distributing various tobacco and vapor products. The act further bars local governments from regulating the sale, distribution, display or promotion of alternative nicotine products on or after December 1, 2024.

   The act creates new G.S. 14-313(g), requiring the Secretary of the Department of Revenue to certify and list on a directory vapor products and consumable products eligible for retail sale in the State pursuant to new Part 3, Article 4, G.S. Chapter 143B. The act also creates penalties for violations of the certification requirements for consumable products and vapor products required by new G.S. Chapter 143B, Article, Part 3.

   - A retailer, distributor, or wholesaler who offers a consumable product or vapor product for retail sale that is not included in the directory is subject to a warning with a mandatory reinspection of the retailer within 30 days of the violation. For a second violation within a 12-month period, the mandatory fine ranges from $500 to $750, and, if licensed, the licensee's license must be suspended for 30 days. For a third or subsequent violation within a 12-month period, the mandatory fine ranges from $1,000 to $1,500, and, if licensed, the licensee's license must be revoked. For a second or subsequent violation, consumable products or vapor products that are not on the directory are subject to seizure, forfeiture, and destruction, with the cost to be borne by the person from whom the products are confiscated. No products may be seized from a consumer who has made a bona fide purchase of the product.
   - A manufacturer whose consumable products or vapor products are not listed in the directory and who causes the products that are not listed to be sold for retail sale in North Carolina, whether directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of $10,000 for each individual product offered for sale in violation of the new law until the offending product is removed from the market or until the offending product is properly listed on the directory. Any manufacturer that falsely represents any information required by a certification form is guilty of a misdemeanor for each false representation.

   Repeated violations of G.S. Chapter 143B, Article 4, Part 3 will constitute a deceptive trade practice under G.S. Chapter 75.

8) S.L. 2024-32 (S 355): **Feral swine.** Effective for offenses committed on or after December 1, 2024, section 3 of this act amends statutes related to the removal of live feral swine from traps

and the transportation of live feral swine. Under amended G.S. 113-291.12, it is unlawful to remove feral swine from a trap while the swine is still alive or to transport live feral swine without authorization from the Wildlife Resources Commission. The penalty for a violation of the statute, found in amended G.S. 113-294(s), is a Class 2 misdemeanor, punishable by a fine of at least $1,000 for a first offense. The penalty for a second or subsequent offense is a Class A1 misdemeanor, punishable by a fine of at least $5,000 or $500 per feral swine, whichever is greater. The acts of removal from a trap and of transporting live feral swine are separate offenses.

9) S.L. 2024-33 (S 303)**: Administration of justice.** Effective for defendants arrested on or after October 1, 2024, section 12 of this act amends G.S. 15A-533(h) to give the clerk of superior court limited authority to set the conditions of pretrial release for a defendant who is arrested for a new offense allegedly committed while the defendant was on pretrial release for another pending proceeding.

Involuntary commitment. Effective July 8, 2024, section 18 of this act amends G.S. 14-409.43(a) (reporting certain firearm disqualifiers to the National Instant Criminal Background Check System [NICS]) to require a petitioner and commitment examiner in a commitment proceeding under G.S. Chapter 122C, Article 5, to provide NICS with the respondent's Social Security number and driver's license number if known. The court may collect the social security number and driver's license number on the petition initiating the proceeding or on documents filed by the commitment examiner. The amended statute also requires a petitioner a commitment proceeding under G.S. Chapter 122C, Article 1 to provide a respondent's driver's license number if known. The court may collect the driver's license number on the petition initiating the proceeding and may place the driver's license number on the court's order upon a judicial determination of incompetence.

10) S.L. 2024-35 (S 565)**: Expunctions.** Effective July 8, 2024, this act amends the laws governing the automatic expunction of records and the availability of expunged records.

Section 1.(a) of the act amends G.S. 15A-146(a4) to require that the expungement by operation of law for charges under this section must occur not less than 180 days and not more than 210 days after the date of final disposition.

Section 1.(b) of the act adds new subsections to G.S. 15A-151. New subsection (a1) makes expunged court records confidential files to be retained by superior court clerks under the applicable retention schedule. New subsection (a2) requires the Administrative Office of the Courts (AOC) to make all confidential records available electronically to clerks of superior court and to personnel of the clerks' offices designated by the respective clerk. A clerk is prohibited from disclosing to any person or for any reason the existence or content of any expunged record from a county other than the clerk's own county. A clerk must disclose existence or content of an expunged record from the clerk's own county in only the following circumstances:

(1) Upon request of a person, or the attorney representing the person on the expunction matter, requesting disclosure or copies of the person's record.

(2) To the office of the district attorney.
(3) To the Office of the Appellate Defender upon appointment of that office as counsel for the person who was the subject of the expunged record.

Section 1.(c) of the act repeals subdivisions (a)(1) through (9) of G.S. 15A-151.5, allowing the AOC to make electronically available all confidential files related to expunctions under G.S. 15A-151 to State prosecutors.

Extension of automatic expunction pause. Effective July 8, 2024, section 2 of this act amends Section 2(c) of S.L. 2022-47 to require the Administrative Office of the Courts (AOC) to, within 365 days of the expiration or repeal of the automatic expansion pause, expunge all dismissed charges, not guilty verdicts, and findings of not responsible that occurred during the period of time that the temporary pause for automatic expunctions was in effect and are eligible for automatic expunction under G.S. 15A-146(a4). Any expungement under this subsection is deemed to have occurred five business days after the date the individual expunction was carried out by AOC.

11) S.L. 2024-37 (H 591): Sexual offenses. Effective for offenses committed on or after December 1, 2024, this act makes changes to various laws regarding sexual offense and sex offenders.

Sexual extortion. Section 1 of this act creates new G.S. 14-202.7, criminalizing sexual extortion and aggravated sexual extortion. The statute defines relevant terms including "adult," "disclose," "image," "minor," and "private image."

A person commits the offense of sexual extortion if the person intentionally threatens to disclose a private image, or to decline to delete, remove, or retract a previously disclosed private image, of the victim or of an immediate family member of the victim in order to compel or attempt to compel the victim or an immediate family member of the victim to do any act or refrain from doing any act against the victim's will, with the intent to obtain additional private images or anything else of value or any acquittance, advantage, or immunity. The offense is punishable as follows:

(1) For an offense by a person who is an adult at the time of the offense, the violation is a Class F felony.
(2) For a first offense by a person who is a minor at the time of the offense, the violation is a Class 1 misdemeanor.
(3) For a second or subsequent offense by a person who is a minor at the time of the offense, the violation is a Class F felony.

A person commits the offense of aggravated sexual extortion if the person commits sexual extortion, and the victim is a minor or an individual with a disability and the person is an adult at the time of the offense. Aggravated sexual extortion is a Class E felony.

Sexual exploitation of a minor. Section 2 of this act amends G.S. 14-190.13 to include definitions for "identifiable minor," "obscene," and "child sex doll." The definition of "material" is expanded to include physical depictions and representations, and to clarify that the definition

includes digital or computer-generated visual depictions or representations created, adapted, or modified by technological means, such as algorithms or artificial intelligence.

Section 2.(b) of the act amends G.S. 14-190.16 to create two new ways by which a person can commit first degree sexual exploitation of a minor: (i) creating for sale or pecuniary gain material created, adapted, or modified to appear that an identifiable minor is engaged in sexual activity; and (6) creating for sale or pecuniary gain a child sex doll of an identifiable minor. A violation of either of these two new provisions is a Class D felony. Any other violation of the statute remains a Class C felony.

Section 2.(c) of the act expands G.S. 14-190.17 (second degree sexual exploitation of a minor) to include distribution, transportation, exhibition, receipt, sale, purchase, exchange, or solicitation of material that contains a visual representation that has been created, adapted, or modified to appear that an identifiable minor is engaged in sexual activity. This section of the act also creates a provision that punishes the distribution, transportation, exhibition, receipt, sale, purchase, exchange, or solicitation of a child sex doll.

Section 2.(d) of the act expands G.S. 14-190.17A (third degree sexual exploitation of a minor) to include possession of a child sex doll and possession of material that contains a visual representation that has been created, adapted, or modified to appear that an identifiable minor is engaged in sexual activity.

Section 2.(e) of the act creates new G.S. 14-190.17C punishing obscene visual representations of sexual exploitation of a minor. Under the new statute, it is a Class E felony for any person to knowingly produce, distribute, receive, or possess with intent to distribute material that: (1) depicts a minor engaging in sexual activity; and (2) is obscene. It is a Class H felony for any person to knowingly possess material that: (1) depicts a minor engaging in sexual activity; and (2) is obscene. It is not a required element of either of these offenses that the minor depicted actually exist.

Section 2.(f) of the act expands G.S. 14-1202.3 (solicitation of a child by computer) to criminalize solicitation of a child who is less than 16 years of age and at least five years younger than the defendant to meet with the defendant or any other person for the purpose of committing an unlawful sex act. This section of the act also creates a provision that punishes the solicitation of a person the defendant believes to be the parent, guardian, or caretaker of a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person for the purpose of committing an unlawful sex act. The statute also includes a new provision to clarify that consent is not a defense to charge to solicitation under this statute.

Sex offender registration. Section 3 of the act adds G.S. 14-190.17C (obscene visual representation of sexual exploitation of a minor) as a sexually violent offense under G.S. 14-208.6 (definitions pertaining to the State's sex offender registry). It also amends G.S. 14-208.15A (pertaining to when a covered entity must release an online identifier of a person suspected of violating certain sex crime statutes to the Cyber Tip Line at that National Center for Missing and Exploited Children) to include GS 14-190.17C as one of the offenses. This section of the act makes conforming changes to G.S. 14-208.18 (provisions pertaining to sex

offenders unlawfully on premises) and G.S. 14-208.40A (determinations of satellite-based monitoring by the court).

Disclosure of private images. Section 4 of the act expands the definition of "image" under G.S. 14-190.5A to include a realistic visual depiction created, adapted, or modified by technological means, including algorithms or artificial intelligence, such that a reasonable person would believe the image depicts an identifiable individual, or any other reproduction that is made created, adapted, or modified by electronic, mechanical, or other means. This section of the act also clarifies the provision of the offense related to depiction of intimate part, to include realistic depictions of exposed intimate parts and realistic depictions of the person engaged in sexual conduct. The offense is also expanded to include creation, adaptation, or modification of images without consent of the depicted person.

12) S.L. 2024-41 (S 527)**: Open containers.** Effective July 8, 2024, section 5.(b) of this act amends G.S. 20-138.7 to exclude from the open container law a container that remains securely sealed pursuant to G.S. 18B-1001(3), 18B-1001(5), or 18B-1001(10). Under these provisions, single-serving unfortified wine drinks sold for consumption off the premises must be packaged in a container with a secure lid or cap and in a manner designed to prevent consumption without removal of the lid or cap. The container shall be no greater than 24 fluid ounces. Notwithstanding G.S. 20-138.7, the transportation of single-serving unfortified wine drinks is not unlawful if the container continues to be sealed and is in the passenger area of a motor vehicle.

13) S.L. 2024-43 (H 250)**: Ignition interlock and limited driving privileges**. Effective for limited driving privileges issued on or after December 1, 2024, section 2.(a) of this act enacts new subsection G.S. 20-179.3(3) to expand limited driving privilege eligibility to certain defendants convicted of impaired driving under G.S. 20-138.1 and that have not been convicted of more than one other offense involving impaired driving within the previous 7 years. Such a person is eligible for a limited driving privilege if all of the following conditions are met:

- At the time of the offense, the person held a valid driver's license or a license that had been expired for less than a year;
- At the time of the offense, the person did not have an alcohol concentration of 0.15 or more;
- Punishment Level 3, 4, or 5 was imposed, or Punishment Level 2 was imposed based solely on the grossly aggravating factor of a prior conviction under G.S. 20-179(c)(1);
- Since the offense, the person has not been convicted of an offense involving impaired driving or had an unresolved charge for such an offense; and
- The person has filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a driver's license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if the person would be eligible for it had the conviction occurred in North

Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1). Pursuant to amended G.S. 20-179.3(g5), a limited driving privilege issued under this new category of eligibility must require an ignition interlock device.

This act expands G.S. 20-179.3(g3) and (g5) to require an ignition interlock device vendor report to NC DMV any attempt to start a vehicle with an alcohol concentration greater than 0.02 or any other ignition interlock violation, including tampering with an ignition interlock device. Amended subsection (g5) further provides that removal of an ignition interlock device before the end of the revocation period voids the limited driving privilege and the NC DMV is required to remove the privilege from the person's driving record.

Section 2.(a) of the act also enacts new G.S. 20-179.3(j2) to extend the applicable revocation period and limited driving privilege period for a person who is required to have ignition interlock and who violates a restriction in the last 90 days of a limited driving privilege. The new subsection provides that the period of revocation and the authorization to drive with the limited driving privilege and an ignition interlock device is extended for an additional 90 days or until the person has been violation-free for a 90-day period.

License restoration. Effective for drivers licenses revoked on or after December 1, 2024, section 2.(b) of this act expands G.S. 20-17.8 to require that a person have an ignition interlock device as a license condition upon restoration if the person's license was revoked for a conviction under G.S. 20-141.4 for any crime other than misdemeanor death by vehicle.

This act expands G.S. 20-17.8(b)(1) to require an ignition interlock device vendor report to NC DMV any attempt to start a vehicle with an alcohol concentration greater than 0.02 or any other ignition interlock violation, including tampering with an ignition interlock device.

This section of the act also enacts new G.S. 20-17.8(g1) to extend the applicable revocation period and limited driving privilege period for a person who is required to have ignition interlock and who violates a restriction in the last 90 days of a limited driving privilege. The new subsection provides that the period of revocation and the authorization to drive with the limited driving privilege and an ignition interlock device is extended for an additional 90 days or until the person has been violation-free for a 90-day period.

For further discussion, see Shea Denning, *2024 Changes to Laws Governing Limited Driving Privileges and Requiring Ignition Interlock*, N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (August 1, 2024).

14) S.L. 2024-45 (H 607): Property crimes against facilities. Effective for offenses committed on or after December 1, 2024, section 9.(a) of this act amends and expands the offense of contaminating a public water system under G.S. 14-159.1 to include injuring a public water system and injuring a wastewater treatment system. Under the amended statute, contaminating a public water system involves knowingly and willfully contaminating, adulterating, or otherwise impurifying, or attempting to contaminate, adulterate or otherwise impurify the water in a public water system. The offense no longer includes damaging or

tampering with the property or equipment of a public water system with the intent to impair the services of the public water system.

Under the expanded statute, injuring a public water system involves knowingly and willfully stopping, obstructing, impairing, weakening, destroying, injuring, or otherwise damaging, or attempting to stop, obstruct, impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a public water system with the intent to impair the services of the public water system.

Injuring a wastewater treatment system involves knowingly and willfully stopping, obstructing, impairing, weakening, destroying, injuring, or otherwise damaging, or attempting to stop, obstruct, impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a wastewater treatment system that is owned or operated by a (i) public utility or (ii) local government unit. The term "wastewater treatment facility" means the various facilities and devices used in the treatment of sewage, industrial waste, or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, nutrient removal equipment, pumping equipment, power and other equipment, and their appurtenances.

A person who commits any of these offenses is guilty of a Class C felony and must be ordered to pay a fine of $250,000. Each violation constitutes a separate offense and shall not merge with any other offense.

Any person whose property or person is injured by an offense committed under this statute has a right of action against the person who committed the violation and any person who acts as an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the offense. An offense under this stature constitutes willful or wanton conduct within the meaning of G.S. 1D-5(7) in any civil action filed as a result of the violation.

The provisions of this statute to do not apply to work or activity that is performed at or on a public water system or wastewater treatment facility by the owner or operator of the facility, or an agent of the owner or operator authorized to perform such work or activity by the owner or operator.

Injuring a manufacturing facility. Effective for offenses committed on or after December 1, 2024, section 9.(d) of this act creates new G.S. 14-150.3, which criminalizes injuring a manufacturing facility. Under this statute, it is unlawful to knowingly and willfully stop, obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct, impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a manufacturing facility. The term "manufacturing facility" means a facility used for the lawful production or manufacturing of goods. The term "property or equipment" includes hardware, software, or other digital infrastructure necessary for the operations of the manufacturing facility. A person who commits this offense is guilty of a Class C felony and must be ordered to pay a fine of $250,000. Each violation constitutes a separate offense and shall not merge with any other offense.

Any person whose property or person is injured by an offense committed under this statute has a right of action against the person who committed the violation and any person who acts as an

accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the offense. An offense under this stature constitutes willful or wanton conduct within the meaning of G.S. 1D-5(7) in any civil action filed as a result of the violation.

The provisions of this statute to do not apply to (i) work or activity that is performed at or on a manufacturing facility by the owner or operator of the facility, or an agent of the owner or operator authorized to perform such work or activity by the owner or operator, and (ii) lawful activity authorized or required pursuant to State or federal law.