

## 2007 LEGISLATION OF INTEREST TO COURT OFFICIALS

**Joan Brannon and Jim Drennan**  
**School of Government**  
**UNC School of Government**  
**September, 2007**

*A copy of any bill can be viewed, downloaded or printed from the General Assembly website at [www.ncleg.net](http://www.ncleg.net).*

### **Estates and Special Proceedings**

- 1. S.L. 2007-106 (S 947). *Uniform Trust Act changes.*** Makes numerous technical and conforming changes to G.S. Ch. 36C (N.C. Uniform Trust Code), Ch. 32 (Fiduciary Compensation); and Ch. 37A (Uniform Principal and Income Act). This digest will mention only those changes that affect clerks and court proceedings. (1) Amends GS 36C-1-109 to specify that notice required to be given under Ch. 36C is given when personally delivered by mail, when transmitted by facsimile, when placed in hands of nationally recognized courier service for delivery, when received by the person if sent by certified or registered mail, return receipt requested; three days after mailed by first-class mail, or if given by any other means, when actually received. (2) Amends GS 36C-2-203(a) to clarify that clerks have original, exclusive jurisdiction to appoint or remove a trustee in an uneconomic trust and to approve the resignation of a trustee in any trust (was, permit the trustee to resign or renounce when governing instrument names or provides procedure for successor trustee; new language conforms to general law before new Code that required court approval for resignation of trustee). (3) Amends GS 36C-2-203 to clarify that in proceedings for which the clerk has original but not exclusive jurisdiction (to ascertain beneficiaries, determine question regarding administration or distribution of trust, construe trust instrument), a party may have proceeding filed before the clerk removed to superior court by filing a notice of transfer of proceeding, specifies when notice must be served on other parties, and requires clerk to transfer the proceeding when the notice is served and filed (was, also allowed clerk, on motion of party to determine that matter should be heard by superior court judge). Upon transfer allows clerk or judge to make appropriate orders to protect interest of parties and avoid unnecessary delay and specifies that clerk's exclusive jurisdiction over other trust matters is not stayed unless is ordered by the judge. (4) Provides that the Attorney General must be given notice and an opportunity to be heard in any proceeding regarding a charitable trust. (5) Amends GS 36C-3-303 to delete authority for a guardian of the person to bind a ward in a trust dispute. (6) Amends GS 36C-4-411, which provides that a noncharitable irrevocable trust may be terminated or modified without court approval if the settlor and all beneficiaries consent, to provide that if a beneficiary is a minor or incompetent, the settlor or an adult beneficiary may institute a proceeding before the court to appoint a guardian ad litem, and to require the court to allow the modification or termination if the court finds that following the appointment of the guardian ad litem the settlor and all the beneficiaries have consented. (7) Adds G.S. 36C-6-602.1 authorizing agent acting under a power of attorney, to the extent

expressly authorized by the power, to exercise the powers of a settlor of a revocable trust to revoke, amend or make additions to the trust; dispose of property of the trust; or create a trust. Authorizes general guardian or guardian of the estate of the settlor to exercise the powers of the settlor set out in the statute governing powers of a guardian. (8) Adds GS 36C-6-605 providing for failure of disposition of trust property by lapse. (9) Adds GS 36C-6-606 to provide divorce by settlor of a revocable trust revokes provisions in favor of the settlor's former spouse and property passes as if the former spouse failed to survive the settlor. (10) Adds GS 36C-6-607 providing that a revocable trust may be modified or terminated by the court under any method set out for irrevocable trusts and that the settlor is a necessary party to any proceeding to modify or terminate a revocable trust. Effective Oct. 1, 2007 but applies to all trusts created before, on or after that date, to judicial proceedings on or after that date, and to judicial proceedings before that date unless the court finds that application of a particular provision of the act would substantially interfere with the effective conduct of the proceeding or prejudice the rights of parties.

2. **S.L. 2007-116 (S 30). *Name change for domestic violence victim.*** Amends GS 101-2 to provide that the requirement to publish notice of the proposed name change at the courthouse door does not apply if the applicant is a participant in the address confidentiality program under Chapter 15C for domestic violence victims or if the applicant provides evidence that he or she is a victim of domestic violence, sexual offense or stalking. Also provides that the application and court records for those applicants are not public records and that the records must be maintained separately from other records and are not subject to inspection except by court order or written consent of the applicant. Effective Oct. 1, 2007.
3. **S.L. 2007-118 (H 107). *New abandoned cemetery law.*** Repeals G.S. Ch. 65, Art. 8, Municipal Cemeteries. Repeals Ch. 65, Articles 1(Care of Rural Cemeteries), 4 (Trust Funds for Care of Cemeteries), 5 (Removal of Graves), and 10 (Access to and Maintenance of Private Graves and Abandoned Public Cemeteries) but replaces them with new Art. 12 of G.S. Chapter 65 that makes the following substantive changes in the current law: (1) Sets amount that can be depositing with clerk for trust to maintain cemetery at \$5,000 and eliminates maximum (was, minimum of \$100 and maximum of \$10,000); (2) requires clerk to place a copy of the accounting for trust funds expended in the estate file rather than making an annual accounting; (3) deletes provision that clerk is entitled to a fee for services of 10% of the annual net income; and (4) provides that clerk may order entry onto property to reach a private grave or abandoned public cemetery to petitioner who is a descendant of the deceased or who has a legitimate historical, genealogical, or governmental interest in the grave or cemetery (was, has a special interest in). Effective for trusts created on or after July 1, 2007.
4. **S.L. 2007-132 (H 775). *Revise Uniform Simultaneous Death Act.*** Amends GS Ch. 28A, Art. 24 regarding simultaneous death on inheritance to provide that death is simultaneous (with the consequence that the beneficiary is deemed to have predeceased the other individual) if the beneficiary is not established by clear and convincing evidence to have survived the other individual by at least 120 hours. Sets out evidence that proves death for purposes of Article. Provides that third party is not liable for making a payment or transfer of property before receiving written notice as specified of a claimed lack of entitlement because of a simultaneous death and upon

receipt of notice, allows third party to pay any amount owed to or deposit any item of property other than tangible personal property with the clerk who holds the funds or property until the clerk determines who is entitled to them under the Simultaneous Death Act. Clarifies that the Simultaneous Death Act is followed to determine whether a person predeceased another for purposes of intestate succession and lapse statutes. Effective for determinations of title to or devolution of property dependent on the death of an individual occurring on or after October 1, 2007.

5. **S.L. 2007-151 (H 865). *Adoption changes.*** Amends GS 7B-1111 to provide that the court may terminate parental rights where the juvenile has been relinquished to a county department of social services or child-placing agency for the purpose of adoption, the consent or relinquishment to adoption has become irrevocable, termination of parental rights is essential to adoption in the jurisdiction where the adoption proceeding is to be filed, and the parent does not contest the termination of parental rights. Amends GS 48-2-100 to allow an adoption proceeding to be filed in NC if (1) the adoptee has lived in NC for at least 6 consecutive months immediately preceding the filing of the petition or from birth, eliminating the requirement that prospective adoptive parent also must be domiciled in NC. or (2) an agency licensed by NC or a county department of social services has legal custody of the adoptee. Provides that prohibition against NC adoption proceeding when another state is exercising jurisdiction under the Uniform Child-Custody Jurisdiction and Enforcement Act does not apply if within 60 days after the date the petition for adoption is filed, the court of the other state dismisses its proceeding or releases its exclusive, continuing jurisdiction. Effective October 1, 2007 for motions in the cause or petitions filed on or after that date.
6. **S.L. 2007-152 (H866). *Termination of parental rights on nonresident parents.*** Amends GS 7B-1101 to give the NC courts jurisdiction to terminate parental rights of person who is not a resident of NC if court would have jurisdiction under Uniform Child-Custody Jurisdiction and Enforcement Act and if process was served on the parent as provided in GS 7B-1106. Effective October 1, 2007 for motions in the cause or petitions filed on or after that date.
7. **S.L. 2007-184 (H 765). *Testamentary additions to trusts/codify two doctrines.*** Amends GS 31-47, regarding testamentary additions to trusts, to clarify language; to provide that a revocable trust to which property is first transferred at testator's death is an inter vivos and not a testamentary trust and is subject to statutes governing trusts; to provide that property devised to a trustee under a will is not held under a testamentary trust of the testator but becomes part of the trust to which it is devised and it administered under the trust; and allows testator to provide in will that revocation or termination of the trust before the testator's death does not cause the devise to lapse. Adds GS 31-51 and -52 codifying the doctrines of "incorporation by reference" (writing in existence when will is executed may be incorporated if will manifests intent to do so) and "independent significance" (will may dispose of property by reference to acts and events that have significance apart from their effect upon the disposition made by the will). Effective July 5, 2007 and applies to estates of persons dying on or after that date regardless of when the will or instrument was executed.
8. **S.L. 2007-199 (H 1842). *Modify Ch. 50C orders.*** Amends GS 50C-1 to clarify that stalking by harassment requires more than one occasion and to provide that a Ch.

50C action can only be brought against a person at least 16 years of age. Effective July 8, 2007.

9. **S.L. 2007-262 (H 445). *Confidential intermediaries to acquire identifying information for adult adoptees.*** Amends GS 48-9-104 to authorize licensed child placing agency or county department of social services to become confidential intermediaries to facilitate contact between an adult adoptee or adult lineal descendant of a deceased adoptee and the biological parent without court proceedings in order to obtain and share nonidentifying birth family health information with adoptee or lineal descendant or to facilitate contact or share identifying information between adoptee or lineal descendant and biological parents with written consent of all parties. "Adult" means a person who has attained the age of 21. Also allows agencies to act as confidential intermediary for adoptive parents of minor adoptee to obtain and share nonidentifying birth family health information without court proceedings. Amends GS 48-9-109 to allow Division of Social Service of Dep't of Health and Human Services to share information regarding identity of birth parents with confidential intermediary. Effective Jan. 1, 2008.
10. **S.L. 2007-276 (H 698). *Conform adoption laws to federal requirements.*** Amends definition of criminal history in GS 48-1-101 to mean conviction of a felony or a pending indictment (1) of a crime for child abuse or neglect, spousal abuse, a crime against a child, including pornography, or a crime involving violence or (2) for physical assault, batter or a drug-related offense, if the offense was committed within the past 5 years. Amends GS 48-3-309 to require county dep't of social services to issue an unfavorable preplacement assessment to prospective adoptive parent if person has a criminal history or if the dep't determines, based on other criminal convictions that the person is unfit to have the responsibility for the safety and well-being of children. Effective Oct. 1, 2007.
11. **S.L. 2007-353 (H 947). *Require tenant in possession to be given notice of sale in foreclosure.*** Amends GS 45-21.16A and -21.17 to require that in the foreclosure of residential property with less than 15 rental units, the notice of sale must (1) state that an order of possession may be issued in favor of the purchaser and against the parties in possession by the clerk and that any tenant in possession of the property based on a lease entered into or renewed on or after Oct. 1, 2007 may terminate the lease after receiving the notice of sale upon 10 days written notice to the landlord and (2) be mailed to persons who occupy the property under a lease. Also provides that a clerk cannot enter an order of possession in residential property containing 15 or more rental units unless 30 instead of 10 days' notice has been given to parties who remain in possession. Effective Oct. 1, 2007. Provisions regarding notice of foreclosure sale apply to notices issued on or after that date.
12. **S.L. 2007-351 (H 1374). *Modify notice of foreclosure hearing.*** Amends GS 45-21.16 to require the notice of a foreclosure hearing to include the following additional information: (1) holder has confirmed that detailed statement of amount due that holder confirms has been mailed to debtor includes all fees, expenses and disbursements due; (2) whether holder or servicer (person responsible for receiving payments from a borrower) in the last two years has received any requests for information have been made by the borrower to the servicer and, if so, whether the requests have been complied with (act includes provisions setting out in specific detail the duties of a servicer in responding to requests for information from the

borrower and includes civil remedies for violations); (3) a statement that the trustee is a neutral party and may not advocate for the creditor or debtor in the foreclosure proceeding; (4) a statement that the debtor may apply to a judge of the superior court for equitable relief; (5) a statement that the debtor has the right to appear at the foreclosure hearing and contest the evidence and that to authorize the foreclosure the clerk must find a valid debt, default, right to foreclose, and notice to those entitled to it; (6) a statement that if the debtor fails to appear at the hearing the trustee will ask the clerk for an order to sell the property; and (7) a statement that debtor has the right to seek the advice of an attorney and that free legal services may be available by contacting legal aid. Deletes prohibition against dispute concerning the mailing or accuracy of the notice to debtor of the amount due being considered in the clerk's foreclosure hearing. Effective April 1, 2008.

13. **S.L. 2007-502 (H 634). *Modify health care powers of attorney.*** Amends various provisions of Art. 3 of GS Ch. 32A, dealing with health care powers of attorney as follows: (1) Allows principal to designate health care agent the power to authorize withholding or discontinuing life-prolonging measures (was life-sustaining measures) and defines "life-prolonging measures" as medical procedures or interventions which in the judgment of the attending physician would serve only to postpone artificially the moment of death by sustaining, restoring or supplanting a vital function, including mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, and similar forms of treatment. (2) Provides that if a general guardian or guardian of the person is appointed for someone who has executed a health care power of attorney, the guardian may petition the court to suspend the authority of the health care agent and authorizes court to suspend the authority for good cause shown, but the court must order the guardian to act consistently with the health care power of attorney or must specify in what respect the guardian may deviate from it. Requires the court to make findings of fact and conclusions of law in a hearing to suspend authority of the health care agent. Although GS Ch. 32A provision uses the term "court," an amendment in the act to GS 35A-1208 specifies that the guardian may petition the clerk for an order suspending the authority of the health care agent. (3) Sets out new statutory form health care power of attorney. Amends GS 35A-1208 to provide that a guardian of the person or general guardian of an incompetent adult may not revoke an Advance Directive for a Natural Death as defined in GS Ch. 90. Amends GS 28A-13-1 to provide that if a health care agent is authority in a valid health care power of attorney to make body, funeral, and burial arrangements, the health care agent takes precedence over the decedent's personal representative. (This bill also makes changes to the GS Ch. 90 provisions regarding directives for natural death.) Effective Oct. 1, 2007.
14. **S.L. 2007-390 (H 1384). *New statutory rule against perpetuities for trusts.*** Adds GS 41-23 to provide that a trust is void if it suspends the power of alienation of trust property for longer than the permissible period, which is no later than 21 years after the death of an individual then alive or lives then in being plus a period of 21 years. The same permissible period applies to the settlor's unlimited power to revoke or amend a revocable trust beginning from the termination of the power. Specifies that period is computed from time the power of appointment is created if the trust is created by the exercise of a power of appointment. Provides that there is no suspension of power of alienability by a trust after the permissible period if trustee has power to sell or if there exists an unlimited power to terminate the trust in one or more persons in being. Specifies trusts to which the rule does not apply, including

charitable trusts. Effective August 19, 2007 and applies to all trusts created before, on or after that date.

## Civil

1. **S.L. 2007-15 (H 46). *Secure area in courthouse for domestic violence victims.*** Where practical, requires clerk, upon request of domestic violence victim, to coordinate with sheriff to make available secure area separate from general population for domestic violence victim to await court hearing. Requires clerk to notify judge that victim is present in segregated location. Requires AOC to report to Legislative Committee on Domestic Violence by May 1, 2008 on progress of providing space in each courthouse. Also requires the NC Council for Women/Domestic Violence Comm'n to study security guidelines at domestic violence shelters. Effective April 12, 2007.
2. **S.L. 2007-116 (S 30). *Informational sheet in domestic violence cases.*** Amends GS 50B-3(c1) to provide that informational sheet clerk must give applicant for domestic violence order when protective order is issued and filed with the clerk must include domestic violence agencies and services, sexual assault agencies and services, victims' compensation services, and address confidentiality services as well as explaining the right to apply for a concealed handgun permit. Effective Oct. 1, 2007.
3. **S.L. 2007-170 (S 1055). *Unfair trade practice regarding rebates.*** Adds GS 75-40 making it an unfair trade practice for a business engaged in commerce not to provide a rebate to a consumer within 60 days of the date of receipt of the completed rebate form or for the business to not to include the statutorily specified provisions in the rebate form. Applies to sales of goods and services that occur on or after Oct. 1, 2007.
4. **S.L. 2007-175 (H 1634). *Custody and visitation hearings when parent receives deployment orders from military.*** Adds GS 50-13.7A to provide that when a parent who has custody or joint custody with primary physical custody receives temporary duty, deployment, or mobilization orders from the military that have a material effect on the parent's ability to exercise custody responsibilities any temporary custody order during the parent's absence ends no later than 10 days after the parent returns except authorizes a hearing for emergency custody upon return of parent under certain circumstances and to provide that the temporary duty and its disruption in the child's schedule can not be considered a factor in determination of change of circumstances if a motion is filed to transfer custody from the service member. Authorizes court to delegate parent's visitation rights to family member while parent is deployed. Provides for court to hold expedited hearings in custody and visitation matters when military duties of parent will affect ability to appear at regularly scheduled hearing and allows parent to present testimony by electronic means (telephone, video teleconference, or internet) in such hearings if military duties affect ability to be present. Effective for custody and visitation actions instituted on or after October 1, 2007.
5. **S.L. 2007-210 (H 244). *Juror challenges in civil cases.*** Amends GS 9-20, which now allows the judge to apportion challenges among multiple defendants and to increase the number of challenges, to add the same provision for multiple plaintiffs.

Allows a judge who increases the number of challenges for plaintiffs or defendants to also increase the number for the other side. Effective Oct. 1, 2007 for actions called for trial on or after that date.

6. **S.L. 2007-212 (H 21). *Costs judge can impose in civil actions specified.*** Amends GS 7A-305 to provide that costs that are assessable in civil actions listed in the statute are complete and exclusive and constitute a limit on the judge's discretion in awarding costs under GS 6-20 and to add to the costs that are allowed to be assessed the following: fees of mediators; reasonable and necessary expenses for stenographic and videographic assistance directly related to the taking of depositions and for the cost of deposition transcripts; reasonable and necessary fees of expert witnesses solely for actual time spent providing testimony at trial, deposition or other proceeding. However, provides that GS 7A-305 and GS 6-20 may not be construed to limit the court's authority to award fees and expenses in connection with pretrial discovery matters as provided in Rules 26(b) or 37 of the Rules of Civil Procedure. Effective for all motions for costs filed on or after Aug. 1, 2007.
7. **S.L. 2007-251 (S 1432). *Appeal of denial of motion to quash subpoena from administrative agency.*** Amends provisions regarding subpoenas issued by the Employment Security Comm'n and the Property Tax Comm'n to provide a procedure for motion to quash and to provide that appeal of Commission's denial to quash is to either the superior court of Wake County or the county where the person subject to the subpoena resides. Effective July 20, 2007.
8. **S.L. 2007- (H 1671). *Voluntary arbitration of medical malpractice cases.*** Adds new Art. 1H to GS Ch. 90 to provide a procedure for voluntary arbitration of negligent health care claims. If all parties to a negligent health care claim agree they may submit to arbitration of the claim rather than litigation. Allows agreement either before or after action is filed and requires parties to file a stipulation of agreement to arbitrate with clerk of court or before the discovery scheduling conference to file a declaration that parties do not agree to arbitration. Provides for much quicker resolution of case (arbitration hearing no later than 270 days after the filing of the stipulation for arbitration), but limits maximum award to \$1,000,000 no matter how many claims or defendants. Sets out method of selecting arbitrator and provides that if parties cannot agree, arbitrator is selected from list of emergency superior court judges. Provides for limited discovery and sets time frames for all stages of arbitration proceeding. Provides that there is no right to de novo trial on appeal and that only on grounds for vacating, modifying or correcting an arbitration award under GS 1-569.23 and -569.24 (corruption or fraud, misconduct by the arbitrator, mathematical miscalculation). Allows party to arbitration proceeding to file a motion with the court for judgment in accordance with the decision and court to enter judgment unless challenged on grounds for appeal. Specifically provides that any contract entered into before the filing of an action that purports to require a party to elect arbitration under this Act is void; however, does not impair the enforceability of any arbitration provision that does not specifically require arbitration under this Act. Effective Jan. 1, 2008 for agreements to arbitrate entered into on or after that date.
9. **S.L. 2007- (H 316). *Amend Rule 45 of the Rules of Civil Procedure.*** Amends GS 1A-1, Rule 45 to require parties or attorneys who receive material in compliance with a subpoenaed they issued to give notice to all other parties within 5 days of the

receipt of the material and to allow parties a reasonable opportunity to copy and inspect the material. Effective for actions filed on or after Oct. 1, 2007.

- 10. S.L. 2007-353 (H 947). *Tenant may terminate residential lease because property is being foreclosed.*** Adds GS 42-45.2 to authorize tenant in residential property containing less than 15 rental units that is being sold under foreclosure proceeding to terminate lease after receiving notice of the foreclosure sale by giving landlord at least 10 days written notice. Effective for residential rental agreements entered into or renewed on or after Oct. 1, 2007.
- 11. S.L. 2007-462 (H 1328). *Party seeking child custody ex parte must disclose sex offense.*** Amends GS 50-13.1 to require a person instituting an action for child custody ex parte to disclose any conviction of a sexually violent offense in the pleadings. Effective Oct. 1, 2007 for proceedings filed on or after that date.
- 12. S.L. 2007-351 (H 1374). *Statute of limitations in usury actions/long-arm jurisdiction statute extended.*** Amends GS 1-53(2) to provide that the 2-year statute of limitations for actions to recover the penalty for usury includes an action regarding the financing of usurious points or fees and that the two-year period accrues with each payment made and accepted on the loan, thereby overturning the decision in *Shepard v. Ocwen Federal Bank*, 361 N.C. 137 (2006). Amends GS 1-75.4 to modify the long-arm statute to provide that personal jurisdiction exists when a claim related to a loan made in NC, regardless of the situs of the lender, assignee or holder of the loan note and regardless of whether the loan payment is received through a loan servicer if (1) the loan was made to a borrower who is resident of NC, (2) the loan is incurred by the borrower primarily for personal, family, or household purposes, and (3) the loan is secured by a deed of trust on real property in NC upon which there is a structure designed principally for occupancy of from one to four families. (Change overturns *Skinner v. Preferred Credit*, 361 N.C. 114 (2006). Effective August 16, 2007.
- 13. S.L. 2007-491 (S 242). *Certain tax cases designated complex business cases.*** Amends GS 7A-45.4 to include within the classification of mandatory complex business cases, an action that involves a material issue related to tax law when the dispute is an appeal from an administrative hearing challenging a state tax refund or proposed assessment or a civil action contesting the constitutionality of statutes setting out procedure for refunds or assessments. G.S. Ch. 105 specifies cases must be heard in Wake County Superior Court. Effective Jan. 1, 2008.
- 14. S.L. 2007-407 (S 1117). *Civil trial exhibits.*** Adds new GS 1-181.2 to spell out the use of evidence in civil jury trial. If jury request review of evidence, court must bring jury back into the courtroom and, after notice to and opportunity to be heard by parties may allow testimony to be read to the jury and allow the reexamination of evidence. If the jury requests to see exhibits, court may, after notice to and opportunity to be heard by parties, exhibits that have been passed to the jury, photos and illustrative exhibits. Summaries of evidence and lists made by parties may not be sent to jury room, even if they were admitted into evidence. If parties consent, any exhibit may be taken into jury room. Court must insure evidentiary integrity when sending items to jury room. Effective Oct. 1, 2007 for trials that begin on or after that date.



## Juvenile

1. **S.L. 2007-100 (H 1243). *Restrain juveniles during court hearing.*** Adds GS 7B-2402.1 authorizing judge during delinquency or undisciplined juvenile hearings to order physical restraint of juvenile if judge finds restraint is reasonably necessary to maintain order, to prevent juvenile's escape, or to provide for safety of courtroom. Whenever practical requires judge to provide juvenile and juvenile's attorney an opportunity to be heard before ordering use of restraints. Requires judge to make findings of fact supporting order restraining juvenile. Effective Oct. 1, 2007 for hearings conducted on or after that date.
2. **S.L. 2007-168 (H 1479). *Juvenile contempt statute.*** Adds new Article 3 to GS Ch. 5A setting out a procedure for holding juveniles (ages 6 until 16) in contempt, thereby creating a new category of contempt – "contempt by a juvenile." Parallels the criminal contempt statute currently in place (that will now be only for persons age 16 or older) except (1) requires appointment of counsel for juvenile for direct contempt; (2) if judge does not proceed summarily in direct contempt and the contempt is based on acts before a judge that so involve the judge that the judge's objectivity may reasonably be questioned, the juvenile should be ordered to appear for a hearing before another judge; (3) allows judge, after a finding of direct contempt, to order that the juvenile be detained in juvenile detention facility for up to 5 days, order juvenile to perform up to 30 hours of community service, and require juvenile to undergo any evaluation necessary to determine the needs of the juvenile; and (4) provides that indirect contempt by a juvenile is adjudged and sanctioned under the procedures in GS Ch. 7B governing delinquent juveniles. Amends GS Ch. 7B to provide that district court has original, exclusive jurisdiction of non-summary direct contempt proceedings; that no points for purposes of determining the juvenile's delinquency history levels are assigned for contempt; and that an adjudication of indirect contempt (which is pursuant to Ch. 7B) is treated as a minor offense classification. Effective for acts and offenses committed on or after Dec. 1, 2007.
3. **S.L. 2007-276 (H 698). *Abuse and neglect and foster care changes.*** Amends various provisions of Subchapter I of GS Ch. 7B, dealing with abused and neglected children, to conform to federal law requirements. Provides to certain persons at hearings in abuse and neglect cases the right to present evidence or to be heard, rather than the opportunity to do so. Requires post termination of parental rights placement review hearings to be conducted until a decree of adoption is entered for the juvenile instead of until the adoption petition is filed. Amends various provisions in GS Ch. 131D to define criminal history to mean conviction of a felony or a pending indictment (1) of a crime for child abuse or neglect, spousal abuse, a crime against a child, including pornography, or a crime involving violence or (2) for physical assault, battery or a drug-related offense, if the offense was committed within the past 5 years and to prohibit person from providing foster care if that person has a criminal history or if the dep't determines, based on other criminal convictions, that the safety and well-being of child would be at risk. Effective Oct. 1, 2007.
4. **S.L. 2007-458 (H 1148). *Require or allow release of identification of certain juveniles who escape from custody.*** Adds GS 7B-3102 to require Dep't of Juvenile Justice and Delinquency Prevention to release to the public specified information, including the juvenile's first name and last initial and photograph, within 24 hours after a juvenile escapes from (1) a detention facility if the juvenile was alleged to

have committed an offense that would be a Class A through E felony if committed by an adult, or (2) a youth development center and has been adjudicated for an offense that would be a felony or Class A1 misdemeanor had it been committed by an adult. Allows release of information if juvenile had been adjudicated for an offense that would be a Class 1, 2, or 3 misdemeanor. Repeals GS 7B-2102 (d). Effective Oct. 1, 2007.

## **Criminal**

1. **S.L. 2007-6 (H 61). *Child restraint law.*** In order to comply with federal regulations, amends G.S. 20-137.1, which requires children to be restrained when riding in vehicles, to delete exception from law when the child's personal needs are being attended to. Effective June 1, 2007 for offenses committed on or after that date.
2. **S.L. 2007-14 (H 42). *Domestic violence pretrial release/homicide reporting.*** Amends GS 15A-534.1 to extend special domestic violence pretrial release rule (when defendant and victim are current or former spouses or persons of the opposite sex who live together or have lived together) requiring judge to set conditions of pretrial release for the first 48 hours after arrest to the crime of stalking. Requires Attorney General in consultation with Domestic Violence Comm'n and law enforcement officials to develop a reporting system and data base for domestic violence homicides. Attorney General to begin collecting data for offenses occurring on or after July 1, 2007.  
Provision regarding pretrial release effective Dec. 1, 2007 for offenses committed on or after that date. Reporting provision effective April 12, 2007.
3. **S.L. 2007-15 (H 46). *Secure area in courthouse for domestic violence victims.*** Where practical, requires clerk, upon request of domestic violence victim, to coordinate with sheriff to make available secure area separate from general population for domestic violence victim to await court hearing. Requires clerk to notify judge that victim is present in segregated location. Requires AOC to report to Legislative Committee on Domestic Violence by May 1, 2008 on progress of providing space in each courthouse. Also requires the NC Council for Women/Domestic Violence Comm'n to study security guidelines at domestic violence shelters. Effective April 12, 2007.
4. **S.L. 2007-38 (H 189). *City to enforce some use of pyrotechnics.*** Amends G.S. 14-410 and -413 to permit a board of county commissioners, by resolution, to authorize the local city councils to issue permits for use of pyrotechnics within the corporate limits. Effective May 11, 2007.
5. **S.L. 2007-80 (S 34). *Felony to kill law enforcement or assistance animal.*** Amends GS 14-163.1 to add as a Class H felony killing a law enforcement or assistance animal knowing or having reason to know that the animal is a law enforcement or assistance animal. Amends GS 15A-1340.16(d) to add as an aggravating factor under structured sentencing that the offense was committed against or caused serious harm or death to a law enforcement or assistance animal while the animal was engaged in

performing the animal's official duties. Effective Dec. 1, 2007 for offenses committed on or after that date.

6. **S.L. 2007-81 (H 784). *No imposition of death penalty to minors.*** Amends GS 14-17, murder statute, to provide that the death penalty could not be applied to defendants under the age of 18 (was, 17) at the time of the offense conforming the statute to the U.S. Supreme Court decision of *Roper v. Simmons*.
7. **S.L. 2007-83 (S 777). *Increase punishment for CPA violations.*** Amends GS 93-13, which regulates CPAs, to make certain violations a Class 1 misdemeanor rather than Class 3. Effective Dec. 1, 2007 for violations committed on or after that date.
8. **S.L. 2007-96 (S 1246). *Prohibit placing processed food in area where open season for black bears.*** Amends GS 113-294 to make it a Class 2 misdemeanor to place processed food products (defined as food substance that has been modified from raw components by addition of ingredients or treatment to modify its chemical composition or form or to enhance its aroma or taste) as bait in area where Wildlife Resources Comm'n has set open season for black bears. Effective Oct. 1, 2007.
9. **S.L. 2007-105 (S 880). *Set aside bond forfeiture for defendant incarcerated anywhere in U.S.*** Amends GS 15A-544.5 to (1) provide that forfeiture can be set aside if defendant was incarcerated anywhere within the U.S. (now only in state or federal prison in NC) at the time of failure to appear and the district attorney in county where charges pending was notified of defendant's incarceration at time of incarceration and that defendant was incarcerated for at least 10 days after notice to district attorney; (2) require surety seeking to set aside forfeiture to present specified documents to court to prove meets ground for setting aside forfeiture; (3) allow court to impose monetary sanctions against surety for failing to submit required documentation or for submitting fraudulent documentation. Modifies G.S. 15A-544.3(b)(9) to require entry of forfeiture to indicate new provisions. Effective October 1, 2007 for forfeitures entered on or after that date.
10. **S.L. 2007-116 (S 30). *Victims' Rights Act applies to crime of violating domestic violence protective order.*** Amends GS 15A-830 to include within the definition of "victim" for purposes of the Victims' Rights Act persons against whom there is probable cause to believe the crime of violating a domestic violence protective order (G.S. 50B-4.1) has been committed. Effective Oct. 1, 2007.
11. **S.L. 2007-122 (H 105). *Change desecration of graves crimes.*** Amends GS 14-148, which now deals with defacing or desecrating fences, shrubbery, and tombstones at grave sites when the damage is less than \$1,000, and G.S. 14-149, which now deals with desecrating a casket or human remains or with vandalizing fences, shrubbery, and tombstones at grave sites when the damage is \$1,000 or more, as follows: (1) provides that GS 14-148 applies only to vandalizing materials or fencing enclosing cemetery or shrubbery, flowers, plants in cemetery that designate place where human remains are interred no matter what the amount of damage and makes violation a Class I felony if damage is \$1,000 or more. (2) Amends GS 14-149 so that it does not apply to materials, fencing, and shrubbery but does apply to vandalizing any tombstones, grave markers no matter what the amount of damage and increases punishment for vandalizing or removing human remains from gravesite from a Class

I to a Class H felony. Effective December 1, 2007 for offenses committed on or after that date.

12. **S.L. 2007-129 (H 1617). *Investigations of use of deadly force by law enforcement officers.*** Adds GS 147-90 to require the district attorney, upon request by the surviving spouse, child, parent, or sibling of the deceased, to ask the State Bureau of Investigation to investigate the killing of a private citizen by a law enforcement officer in the line of duty. Effective for acts occurring on or after October 1, 2007.
13. **S.L. 2007-134 (S 125). *Illegal to inhale ethyl alcohol and manufacture, sell or possess alcohol vaporizing device.*** Amends GS 90-113.10, -113.11, and -113.12 to add ethyl alcohol as substance specifically named as toxic vapor that is illegal to inhale, possess or sell. Adds GS 90-113.10A to make it illegal to manufacture, sell, or possess a alcohol vaporizing device, which is defined as a device that is designed or marketed for the purpose of mixing ethyl alcohol with oxygen or another gas to produce a vapor that an individual can inhale or snort, but does not include a device designed to dispense a substance prescribed by a licensed medical provider or over-the-counter medication provided the instrument is not used for the purpose of inducing a condition of intoxication through inhalation. Effective for offenses committed on or after Dec. 1, 2007.
14. **S.L. 2007-164 (S 830). *DMV not revoke or refuse registration when ignition interlock system is imposed.*** Amends GS 20-54 and -54.1 to provide that DMV's authority to refuse registration or issuance of a title because the registration of the vehicle is suspended or revoked or to revoke the registration of all motor vehicles registered in the name of person convicted of an offense involving impaired driving while license is revoked does not apply to cases in which an ignition interlock system is imposed. Effective July 1, 2007.
15. **S.L. 2007-163 (H 817). *Residential mortgage fraud crime.*** Adds new GS 14-118.10 to -118.17 creating the crime of residential mortgage fraud, which occurs when a person, for financial gain and with intent to defraud, (1) knowingly makes a material misstatement or misrepresentation within the mortgage lending process with the intention that the other persons involved in the process relies on it; (2) knowingly using such a misstatement with the intent that the other persons involved in the process will rely on it; (3) receiving proceeds in connection with a residential mortgage closing that the person knew or should have known resulted from one of the two violations mentioned above; or (4) conspiring or soliciting another to violate one of the provisions mentioned above. Sets out the proper venue for bringing a criminal proceeding for residential mortgage crime; provides for forfeiture of property used or derived from crime under certain circumstances. Provides that violation involving a single mortgage loan is a Class H felony and violation involving a patter of loans (five or more loans) is a Class E felony. Effective for offenses committed on or after Dec. 1, 2007.
16. **S.L. 2007-165 (S 1290). *Continuous alcohol monitoring system for persons convicted of DWI.*** Amends GS 20-19(e) to allow DMV to conditionally restore a person's revoked license after it has been revoked for impaired driving for at least 24 months, if the person proves that he had not consumed alcohol for the 12 months preceding the restoration while being monitored by a continuous alcohol monitoring device, has not during the period of revocation been convicted of a motor vehicle,

alcoholic beverage control, drug, or any other criminal offense, is not currently an excessive user of drugs or prescription drugs, and is not unlawfully using controlled substances. Amends GS 20-179 to add as a mitigating sentencing factor for DWI that the defendant completed a substance abuse assessment, complied with its recommendations and maintained 60 days of continuous abstinence from alcohol consumption as proven by a continuous alcohol monitoring system and to allow judge to impose as a condition of probation under certain punishments that defendant abstain from alcohol for 30 to 60 days as verified by a continuous alcohol monitoring system and to impose the cost on the defendant. Amends GS 15A-1374 to add as a possible condition of parole from DWI that the parolee remain alcohol free as evidenced by a continuous alcohol monitoring system. Directs Department of Correction to establish regulations for continuous alcohol monitoring systems that are authorized for use by the courts as evidence that an offender on probation has abstained from alcohol use. The regulations must include procedures for supervision of the offender, collection and monitoring of the results, and transmission of data to the court. All courts, including those using continuous alcohol monitoring systems prior to the effective date of this Act, must comply with these regulations. Effective for offenses committed on or after Dec. 1, 2007 but act not to be construed to prohibit a court from continuing or allowing the use of the monitoring systems before the effective date.

- 17. S.L. 2007-172 (S17). *Pretrial release conditions for sex offenders made mandatory.*** Amends GS 15A-534.4 to require rather than allow judicial official who sets pretrial release for persons charged with sex offenses and crimes of violence against child victims to impose statutory conditions on pretrial release unless the official makes written findings of fact that it is not in the best interest of the alleged victim that the condition be imposed. Effective for offenses committed on or after Dec. 1, 2007.
- 18. S.L. 2007-178 (H 1354). *Motor vehicle chop shop crimes.*** Adds GS 14-72.7 to make it a Class H felony to knowingly (1) alter, destroy, dismantle or store a motor vehicle or motor vehicle part that the person knows to be illegally obtained, (2) permit a place to be used for activity prohibited by act, (3) purchase, dispose of, sell, receive or possess a motor vehicle or part knowing that the vehicle identification number has been altered, counterfeited, destroyed, or removed, and (4) purchase, dispose of, sell, receive, or possess a motor vehicle or part to or from a person engaging in an activity prohibited under act knowing that the person is engaging in that activity. Provides for civil action as well as criminal one and provides for seizure of property used to engage in prohibited activities. Amends GS 19-1 to provide that maintenance or use of a building for purpose of carrying on these prohibited activities is a nuisance. Effective Dec. 1, 2007 and applies to offenses committed on or after that date.
- 19. S.L. 2007-181 (S 21). *Exempt certain herding dogs from crime of dog fighting and baiting.*** Amends GS 14-362.2 to provide that crime of dog fighting and baiting does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment or sporting purposes. Effective July 5, 2007.
- 20. S.L. 2007-183 (H 786). *Ensure DAs receive all information from law enforcement.*** Amends GS 15A-903 to provide that upon request by the State, a law enforcement agency or prosecutorial agency shall make available to the State a complete copy of the complete files related to the investigation of the crimes committed or prosecution

of the defendant. Effective Dec. 1, 2007 for cases where the trial date is set on or after that date.

- 21. S.L. 2007-188 (H 554). *Increase penalty for assault on patient in health care or residential care facility.*** Increases punishment from Class A1 misdemeanor to Class H felony for assault on patient in health care or residential care facility when conduct evinces a pattern of conduct, the conduct is willful or culpably negligent, and the conduct causes bodily injury to a patient. Effective for offenses occurring on or after Dec. 1, 2007.
- 22. S.L. 2007-190 (H 47). *Create felony violation of domestic violence protective order.*** Amends GS 50B-4.1 to make it a Class H felony for a defendant to violate a valid protective order by failing to stay away from a place or a person as directed by the order while the defendant is in possession of a deadly weapon. Effective for offenses committed on or after Dec. 1, 2007.
- 23. S.L. 2007-196 (H 1347). *Create crime of false report concerning mass violence on school property.*** Adds GS 14-477.5 making it a Class H felony for person to make a report, knowing or having reason to know the report is false, that an act of mass violence is going to occur on educational property or at an activity sponsored by the school. Authorizes court to order person convicted of this crime to pay restitution, including costs and consequential damages resulting from the disruption. Effective for offenses committed on or after Dec. 1, 2007.
- 24. S.L. 2007-211 (H 995). *Animal cruelty changes.*** Amends GS 14-360 to make it a Class A1, instead of Class 1, misdemeanor to maliciously kill an animal by intentional deprivation of necessary sustenance and to exempt from definition of torture or cruelty to animals the physical alteration of livestock or poultry for the purpose of conforming with breed or show standards. Increase in punishment effective for offenses committed on or after Dec. 1, 2007 and provision regarding livestock and poultry effective July 11, 2007.
- 25. S.L. 2007-213 (H 29). *Sex offender satellite monitoring changes.*** (1) Adds new GS 14-208.40A to require court sentencing sex offender required to register to also determine if the offender is in a category that requires satellite-based monitoring (SBM); requires prosecutor to present any relevant evidence and requires judge to make finding of fact of the determination that leads to SBM. If offense is one that involves abuse of a minor, requires court to first order the Dep't of Correction to do a risk assessment before finding that SBM is warranted. (2) Adds new GS 14-208B to direct DOC to make determination about whether SBM is warranted if court has not already done so (and require the offender to begin SBM), and to "schedule a hearing in the court of the county where the offender resides" so that court can determine if SBM is warranted. Court then holds hearing pursuant to new GS 14-208A. (3) Adds new GS 14-208C to specify that SBM begins immediately upon release from active sentence or upon being sentenced to crime requiring SBM. (4) Amends GS 14-208.42 to allow DOC to contact offender under SBM requirement (whether or not offender is on probation or parole) and requires offender to cooperate with DOC. (5) Makes failure to cooperate a Class 1 misdemeanor under GS 14-208.44 and makes it a Class F felony to interfere with the proper functioning of a SBM device. (6) Eliminates requirement that judge place certain offenders on lifetime probation. (7) Amends GS 15A-1343(b2) (special sex offender conditions of probation) to require

probationers to submit to warrantless searches of their computers and other electronic devices, and to pay for the costs of positive drug screens. (8) Amends GS 15A-1374 to require similar searches of parolees subject to sex offender registration requirements, and GS 15A-1368.4 to require similar searches for sex offenders on post release supervision. (9) Amends GS 14-208.9 to require sex offender required to register to notify sheriff in any new county to which the offender moves. (10 Amends GS 14-208.16 (restrictions on where sex offenders can live) to redefine immediate family member with whom offender can live in certain situations to include grandparent, legal guardian or spouse and to limit the siblings who qualify to those over 18. (11) Amends GS 14-208.43 to require DOC to terminate SBM if offender is relieved from registration requirements. (1) is effective Dec. 1, 2007 for sentences entered on and after that date; (5) is effective for offenses committed on and after Dec. 1, 2007; (7) and (8) are effective for persons placed on probation, parole or post-release supervision on and after that date; (9) is effective Dec. 1, 2007. Remainder is effective July 11, 2007.

- 26. S.L. 2007-260 (S 1359). *Allow motorcycle to proceed through red light when sensor is not activated.*** Amends GS 20-158 to provide a defense to a charge of running a red light if the operator of a motorcycle can prove that (1) he came to a complete stop, (2) the intersection is controlled by a vehicle actuated traffic signal using inductive loop to activate the traffic signal, (3) no other vehicle that was entitled to have the right-of-way was sitting at, traveling through, or approaching the intersection, (4) no pedestrians were attempting to cross the intersection, and (5) he waited a minimum of 3 minutes at the intersection where the steady red light was being emitted before entering the intersection. Effective Dec. 1, 2007 for offenses committed on or after that date.
- 27. S.L. 2007-261 (H 183). *School bus drivers not use cell phones.*** Adds GS 20-137.4 to make it a Class 2 misdemeanor for a school bus driver to use a cell phone while driving a school bus. Prohibits local governments from adopting ordinances regulating the use of cell phones by school bus drives. Effective for offenses committed on or after Dec. 1, 2007.
- 28. S.L. 2007-289 (H 1330). *Exemption from seat belt requirement.*** Amends GS 20-135.2A to exempt from requirement to wear a seat belt person in custody being transported in the back seat of a law enforcement vehicle. Effective July 27, 2007.
- 29. S.L. 2007-293 (S 758), as amended by S.L. 2007-345 (H 714). *Limited driving privilege for DWLR.*** Adds new GS 20-20.1 to authorize district judge to issue limited driving privilege to certain persons whose license is revoked for convictions under GS 20-28 or GS 20-28.1 (DWLR or moving offense during revocation, hereafter DWLR). Prescribes detailed eligibility criteria, which include the following: the underlying revocation (the one the person had when he or she drove with a revoked license) cannot be an impaired driving revocation; the DWLR is the only revocation in effect; the person has no pending charges or unpaid fines; the person has not had another privilege under this section in previous three years and person has served a specified period of the current revocation. That period is 90 days of a one-year revocation, one year of a two-year revocation and two years of a permanent revocation. Spells out purposes and limits on driving that privilege must contain, generally following the same purposes and limitations found in GS 20-179.3 for impaired driving revocations. Privilege is for term of one year or length of time

remaining in the revocation period. At end of term, DMV must restore license if person pays fees, provides proof of financial responsibility and has no other related convictions during the period of the privilege. Procedure is specified to be a civil action, filed in district court; applicable fees apply and an additional fee of \$100 is required. Amends GS 7A-305 to make it clear that civil action General Court of Justice costs apply to filing for limited driving privilege. Effective December 1, 2007 and applies to revocations that occur before, on, or after that date.

- 30. S.L. 2007-294 (H 1810). *Limit polygraph exams of victims of sexual assaults/AOC develop federal firearm compliance form.*** The following amendments are adopted to bring NC law in compliance with the Violence Against Women Act of 2005 (VAWA): (1) Adds GS 15A-831.1 to prohibit criminal justice agency from requiring a person claiming to be a victim of sexual assault to submit to a polygraph as a precondition to conducting an investigation into the matter. Specifies notice that must be given to agency that in a particular case wants to require a polygraph test. (2) Requires AOC, in cooperation with the NC Coalition Against Domestic Violence and Governor's Crime Comm'n, to develop a form to comply with the criminal case firearm notification requirements of the VAWA and, effective Jan. 1, 2008, requires all defendants convicted of crimes subject to firearm notification requirements to be given a copy of the form. Polygraph provision effective for sexual assault offenses alleged to have been committed on or after Dec. 1, 2007.
- 31. S.L. 2007-301 (H 367) *Increase punishment for secondary metals recyclers and injuring cable communications.*** Amends GS 66-11 to require secondary metals recyclers to get license plate number and copy of photo identification of persons selling regulated metals to recycler and to retain metals for 7 days before altering. Also adds GS 66-11.2 allowing forfeiture of vehicles used to convey unlawfully obtained regulated metals. Increases punishment for second or subsequent violation from Class 1 misdemeanor to Class I felony. Amends GS 14-154 to clarify that crime of injuring wires and other fixtures of telephone, telegraph and electric-power companies to include cable telecommunications, and other kinds of wireless communications and to increase punishment from a Class 1 misdemeanor to a Class I felony. Effective for offenses committed on or after Dec. 1, 2007.
- 32. SL 2007-539 (H 1500). *DNA evidence preservation.*** Amends GS 15A-268, which previously required that samples containing biological materials be retained, to require preservation of any physical evidence likely to contain biological evidence, and such evidence must be maintained in a manner designed to prevent contamination or degrading of the material. Material must be kept until person executed if the sentence is a death sentence, or until the person serves the entire sentence for a violent felony (under GS 14-7.7(b)), until any person required to register as sex offender has completed incarceration and any period of release, for seven years for any other felony included in DNA database requirement. If person pleads guilty to violent felony or any other DNA felony that does not require sex offender registration, must be kept for three years. Allows custodian of evidence to petition court for permission to destroy biological evidence before these time periods pass. Court may allow destruction if custodian shows that material has no significant value for testing and should be retained or is of a size or other physical characteristic that is not usually retained, or that it still has value for testing, but is of such a size that it cannot practically be retained. The court may order the custodian to take steps to retain samples for testing or may allow defendant to take steps to preserve



evidence. Judges' decision may be appealed by defendant, and evidence may not be destroyed pending appeal. Amends GS 15A-267 to allow defendant to petition court for testing of DNA in a pending case upon showing that material is relevant, and has either not been tested or there are more accurate testing procedures now available, and that testing is material to his or her defense. Amends GS 15A-269 (dealing with DNA testing for postconviction proceedings) to require defendant to sign affidavit of innocence before court can require DNA testing. Adds new GS 15A-270.1 to allow defendant to appeal an order denying DNA testing request. Effective March 1, 2008.

- 33. S.L. 2007-421 (H 1625). *Eyewitness identification procedures.*** Adds new Article 14A to GS Ch. 15A adding new sections 15A-284.50 through -284.53. Requires law enforcement agencies to meet these new statutory procedures when they conduct lineups (either using live persons or photographs) for eyewitnesses to identify perpetrators of a crime. Procedures require lineup to be conducted by independent administrator; people or photos have to be presented sequentially and removed before another is presented; eyewitness must be instructed that perpetrator may not be present, that administrator doesn't know who is suspect, that it is as important to exclude the innocent as to convict the guilty, and that investigation will continue no matter what eyewitness says; requires written record of that notice; requires photos to be contemporary and representative of suspect's appearance at time of offense; requires at least five "fillers" who must resemble suspect as much as practicable; must not indicate a suspect's prior record in any way; if physical actions or speech are required of lineup persons, each person must be asked to do same thing; must indicate the eyewitness' level of confidence in any identification; and must make video record, or if not possible, an audio record, or if not possible, a "written record" of the lineup. The record must include all identification and nonidentifications, the confidence statements, names of all persons in lineup, exact words used in identifying any suspect, copies of any photos used, and other specified information. Allows alternative to use of independent administrator if the procedure is approved by Criminal Justice Education and Training Standards Commission; any alternative procedure must still prevent the person administering the lineup from knowing which person the eyewitness is viewing. Court may consider failure to follow procedures in motions to suppress, and jury may be informed of the failure to follow the procedures in evaluation of eyewitness' testimony. Directs Commission to develop training programs and materials for law enforcement officers in the new procedures. Effective March 8, 2008 for offenses committed on and after that date.
- 34. S.L. 2007-434 (H 1626). *Homicide custodial interrogations.*** Adds new Article 8 to GS Ch. 15A, which consists of a new GS 15A-211. Requires law enforcement officer conducting custodial interrogation in a homicide investigation to electronically record the interrogation in its entirety. Record may be audio or video, and must be authentic, accurate, and unaltered. Record is admissible against defendant if otherwise admissible. Failure to record allows defendant to question the voluntariness of any statement made during or after the non-recorded interrogation. State may show by clear and convincing evidence that failure to record was for good cause and that the statement was voluntary and reliable. Good cause may be defendant's failure to agree to recording or equipment failure. Court may consider noncompliance in considering motion to suppress statement, and may be admissible to question voluntariness or reliability of the statement. Does not preclude admission of statements made in open court, volunteered, made during arrest processing, in another state or in a federal interrogation, or if the person was not considered a suspect. Also allows statements

used only for impeachment purposes. Requires record to be maintained until one year after completion of all appeals, including post-conviction appeals. Effective March 1, 2008 for interrogations occurring on or after that date.

- 35. S.L. 2007-537 (H 1277). *License revocation for furnishing alcohol to minors.*** Amends GS 18B-302 to create a separate offense (GS 18B-302(a1) to give alcohol to person under 21 (current law treats sales or gifts in a single offense; this separates the two actions into separate offenses). Requires clerk of court to report convictions to DMV of any violation of new gift offense, and of any convictions of aiding and abetting the purchase of alcohol by minor when the aider and abettor is over 21 (formerly only aiders and abettors under 21 were reported). Makes violation of new gift provision a Class 1 misdemeanor, and if court does not impose an active sentence must include as condition of probation a minimum \$250 fine and 25 hours of community service for first offense and \$500 fine and 150 hours of community service for second offense in a four year period. Amends GS 20-17.3 to require DMV to revoke drivers license of person convicted of giving alcohol or of aiding and abetting (when person convicted is over 21) the purchase by a minor. Revocation is for one year and may not run concurrently with any other revocation already in effect. Judge may grant limited privilege using DWI limited privilege procedure and rules for any person revoked as aider and abettor or who gives alcohol to minor. (Does not change current law that revokes license for minors convicted of illegal purchase or attempt to purchase. Also retains current law that does not revoke license for conviction of illegal sale to minor or for conviction for illegal consumption or possession by a minor.) Effective Dec.1, 2007 for offenses created on and after that date.
- 36. S.L.2007-474 (H 1707). *Allow detention officers to carry firearms in courthouse.*** Amends GS 14-269.4 to allow detention officers employed by and authorized by the sheriff to carry firearms to carry firearms in the courthouse. Effective August 29, 2007.
- 37. S.L. 2007-399 (S 1327). *When bail bondsman keep fee.*** Amends GS 58-71-20 to allow bail bondsman who surrenders defendant before a breach to keep the premium if the defendant fails to disclose information or provides false information about any failure to appear in court, previous felonies within past 10 years, or pending State or federal charges or if the defendant knowingly provides surety with incorrect personal identification or uses false name. Effective August 21, 2007.
- 38. S.L. 2007-455 (H 976). *Clarify definition of public vehicular area/emergency vehicle access to gated communities.*** Amends GS 20-4.01 to clarify that public vehicular area includes public or private roads used by vehicular traffic within or leading to gated or non-gated communities and adds GS 20-158.3 to require persons or associations having responsibility for controlled access system on a road that is a public vehicular area to provide a means of immediate access to emergency service vehicles. Effective Dec. 1, 2007.
- 39. S.L. 2007-403 (H 118). *Court ordered testing of sex offenders for sexually transmitted diseases.*** Amends GS 15A-615, which allows court to order testing of persons charged with sex offense for sexually transmitted diseases, to require testing to be done no later than 48 hours after date of court order and to require test to use

HIV-RNA Detection Test for determining HIV infection. Effective Dec. 1, 2007 for offenses committed on or after that date.

**40. S.L. 2007-493 (S 999). *DWI technical amendments.*** Makes numerous amendments to DWI law enacted last year (SL 2006-253). Most are technical. Substantive amendments include (1) Provisions making it clear that license revocation provisions applicable to death by vehicle convictions also apply to felonious injury provisions in the same section (GS 20-141.4); (2) Rewrites GS 20-179(c) and GS 20-38.7, which deal with the situations in which multiple pending impaired driving cases are being sentenced in the same or different courts, to provide that it is a grossly aggravating factor if a conviction in district court has been appealed to superior court, has been withdrawn or the case remanded and a new sentencing hearing has not been held; to repeal the provision that prohibited resentencing of a remanded impaired driving case if there was another impaired driving case pending; and to specify that remanded cases can be appealed for jury trial on sentencing matters only if there is new information that was not considered in the original district court trial. (3) Extends the minimum period that a person must serve for a permanent revocation caused by a felony death by vehicle statute from three to five years. (4) Makes it clear that violations of GS 20-138.3 are punished under that section and not under GS 20-179. (5) Amends various statutes that now use 0.16 alcohol concentrations as a threshold (to require interlock, as an aggravating factor, etc.) to lower the threshold to 0.15. Specifies in GS 20-17.8 that DMV is to use the chemical analyst's affidavit to determine if it should impose an interlock requirement on a restored license. Amends GS 20-179.3(g5), which requires a limited privilege to include an interlock if the defendant has an alcohol concentration of 0.15 or more, to specify that the results of a test presented at trial or sentencing are conclusive, and may not be modified by a party, with or without approval by the court. Adds new GS 20-179.3(c1) to establish restrictions on limited privileges for "high-risk drivers" (drivers with alcohol concentration of 0.15 or more) to prohibit issuance of limited privilege for first 45 days after the final conviction; to require the defendant to have interlock device on the vehicle and to restrict the person to driving to and from work or school (but not during work), and to go to treatment, education or to get the interlock device serviced. (6) Adds charge of impaired driving or driving by underage person after drinking to list of things that justify secure custody of a juvenile; and authorizes Legislative Research Commission to study dispositional alternatives for juveniles charged with those crimes. (7) Makes provisions in SL 2006-253 dealing with medical exceptions to interlock requirement effective Aug. 21, 2006. Provisions lowering 0.16 threshold to 0.15 and the new secure custody rule are effective December 1, 2007 for offenses committed on and after that date and remainder are effective August 30, 2007.

**41. S.L. 2007-387 (S 728). *Encourage mediation in district court criminal cases.*** Adds new GS 7A-38.3D to provide that in each district court district the court may encourage mediation for criminal district court actions and the district attorney may delay prosecutions for mediation to take place. Authorizes local community mediation center to assist the court in administering a program for mediation services and in the screening and scheduling of cases for mediation and provide certified staff to conduct criminal court mediations. Requires Supreme Court to adopt rules no later than Jan. 1, 2008 to implement criminal district court mediations, including qualifications for mediators. Provides judicial immunity to mediators, and confidentiality of mediations. Requires agreements to be reduced to writing and

requires defendant to pay dismissal fee, unless court waives, when agreement has been reached. Effective when it becomes law for mediations conducted on or after the date the Supreme Court adopts rules.

- 42. S.L. 2007-427 (H 1231). *Exemptions from firearm laws.*** Adds GS 14-415.25 and – 415.26 to exempt law enforcement officers and retired law enforcement officers (as defined) authorized to carry weapons under federal law from obtaining a concealed weapon permit and to set out a procedure for retired officer to get certification from NC Criminal Justice and Training Standards in lieu of a permit. Amends GS 14-269.2 to allow armed armored car service guards to carry weapons on educational property or armed security guards to carry weapons while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guards duty and with the permission of the college. Provides that provision regarding carrying weapons on educational premises is effective on \_\_\_\_ and provisions regarding qualified retired law enforcement officers are effective Dec. 1, 2007 for offenses committed on or after that date.
- 43. S.L. 2007-412 (H 573). *Allow judges to carry weapons in court facility.*** Amends GS 14-269.4 to make it lawful for district or superior court judges to carry a concealed handgun in a court facility if the judge is in the facility to discharge his or her official duties and the judge has a concealed handgun permit. Effective August 21, 2007.
- 44. S.L. 2007-494 (S 229). *Jailer determine legal status of certain prisoners.*** Amends GS 162-62 to provide that when a person charged with a felony or with an impaired driving offense is confined in a local jail, the jail administrator must attempt to determine if the prisoner is a legal resident of the U.S. but provision is not to be construed to deny bond to a prisoner or to prevent release from confinement when prisoner is eligible. Effective Jan. 1, 2008.
- 45. S.L. 2007-509 (S 301). *Expunge DWI civil revocation.*** Amends GS 15A-145 and - 146 to require court ordering expunctions under those statutes to include in order that CVR records be expunged from court and DMV records if the underlying criminal charge is being expunged. Directs AOC to retroactive determine which expunctions entered previously included CVR cases and in those cases to expunge the CVR records and notify DMV to do so as well. Effective October 1, 2007.
- 46. S.L. 2007-377 (S 1009). *Criminal discovery amendments.*** Amends GS 15A-903 to specify that state’s duty to disclose discovery information to defense does not include oral statements made by a witness to a prosecutor outside the presence of a law enforcement officer or investigator unless there is significant new or different information in the oral statement. Amends GS 15A-904 to specify that state’s discovery obligations do not require it to disclose the identity of a confidential informant unless otherwise required by law, or any personal identifying information of a witness other than name, address, date of birth and published phone number, unless defendant establishes by motion that the information is necessary to identify and locate the witness.
- 47. S.L. 2007-375 (S 8). *Drug sales near parks, schools.*** Amends GS 90-95(e) to expand area in which enhanced punishment for drug possession, sale, etc. is imposed (Class E felony) from 300 to 1000 feet of the boundaries of a school, child care

center or park and include all park land in the areas covered by the “safe zone”. Effective Dec. 1, 2007 for offenses on or after that date.

- 48. S.L. 2007-463 (H 1094), as amended by S.L. 2007-484 (S 613, § 43.7J ).** *Increase punishment for unlawful operation of video device.* Amends GS 14-440.1 to make it a Class 1 misdemeanor to knowingly operate a device capable of functioning as a digital or analog photographic camera for the purpose of recording a part of a motion picture not greater than one image without written consent of motion picture theater owner. Increases punishment for knowingly operating an audio visual recording device in a motion picture theater to record a motion picture or any part of the motion picture without written consent from Class 1 misdemeanor to Class I felony for first offense and to provide for a minimum fine of \$2,500 for first offense and \$5,000 for second or subsequent offense. Effective for offenses committed on or after Dec. 1, 2007.
- 49. S.L. 2007-547 (S 1079).** *Protect victims of human trafficking.* Amends GS 14-43.11 to provide that victim of human trafficking who is not a legal resident of NC is eligible for public benefits if otherwise qualifies for them and amends GS 7A-474.3 to provide that they are entitled to legal aid services to obtain benefits. Amends GS 15A-830 and -832 to provide that a victim of human trafficking is covered by the Crime Victim’s Rights Act and to require the district attorney to notify Attorney General and Legal Aid of NC when there is a victim of human trafficking who is entitled to public benefits. Amends GS Ch. 15C to provide that for address confidentiality program through Attorney General’s Office applies to victims of human trafficking. Effective for offenses committed on or after Dec. 1, 2007.
- 50. S.L. 2007-393 (H 1130).** *Discovery of complete law enforcement files.* Amends GS 15A-903 to provide that criminal defendant is entitled to discover records of a public or private entity that obtains information on behalf of a law enforcement agency or prosecutor in connection with the investigation of the crimes committed or prosecution of defendant.
- 51. S.L. 2007-370 (S 1211).** *Fingerprint persons charged with DWI or driving with revoked license.* Amends GS 15A-502 to require defendant arrested for impaired driving or driving while license revoked to be fingerprinted and photographed if the defendant cannot be identified by a valid form of identification. Effective for offenses committed on or after Oct. 1, 2007.
- 52. S.L. 2007-373 (S 1270).** *Larceny changes/Create crime of organized retail theft.* Adds GS 14-72.11 to make it a Class H felony to commit larceny against a merchant under any of the following circumstances: (1) if property is taken with a value of more than \$200, by using an exit door to exit the premises if the door was erected to comply with federal regulations and a notice about the felony offense had been placed on the door; (2) by removing, deactivating a component of an antishoplifting or inventory control device to prevent activation of the device; (3) by affixing a product code created for the purpose of fraudulently obtaining the goods at less than its actual sales price; or (4) when the property is infant formula valued at more than \$100. Amends GS 14-71 to make it a Class H felony to knowingly receive or possess property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency as stolen (in other words buying “stolen property” in a law enforcement sting is larceny). Adds GS 14-86.6 to

make it a Class H felony for a person (1) to conspire to commit theft of retail property from a retail establishment, with a value of over \$1,500 aggregated over a 90-day period, with the intent to sell the property for monetary gain and to place the property in the control of a retail property fence (person who buys property knowing it or believing it to be stolen) or (2) receive or possess retail property that has been taken in a conspiracy to commit retail property theft knowing or having reasonable grounds to believe the property is stolen. Makes any interest acquired in violation of the new felonies subject to forfeiture under GS 18B-504. Effective December 1, 2007 for offenses created on or after that date.

53. **S.L. 2007-115 (H 353). *DWI blood test changes.*** Amends GS 8-53.1 to delete specific provision allowing disclosure of medical information to law enforcement officers investigating vehicle crashes, and amends GS 90-21.20B to allow disclosure of medical information to law enforcement officers to the extent the information may be disclosed under 45 CFR 164.512(f) and is not specifically prohibited by state or federal law. Amends GS 20-139.1(c) to provide that person requested to draw blood from person subject to the implied consent law may refuse only if it reasonably appears that the procedure is cannot be done safely, and officer may request written justification for the refusal. Effective June 27, 2007.
54. **S.L. 2007-380 (S 925). *Speeding law changes.*** Amends GS 20-123.2 to require official records of motor vehicle cases to include violations of that statute specifically, and to specify that the statutory provision making violations of the speedometer law a lesser included offense of speeding does not apply to charges of speeding in excess of 25 miles per hour. Amends GS 20-141 to provide that driver charged with speeding in excess of 25 miles per hour is not eligible for a prayer for judgment continued. Effective Dec. 1, 2007 for offenses committed on and after that date.

## Miscellaneous

1. **S.L. 2007-29 (S 184). *State ethics report of economic interest.*** Amends GS 138A-24(a) to provide that judicial officers may use a business address instead of home address and the initials of any unemancipated children in their statements of economic interest if they concurrently provide the Comm'n their home address and names of unemancipated children in a separate statement that is confidential. Amends GS 138A-22(d) to clarify that judicial candidate must file statement of economic interest at the same place and in the same manner as the candidate's notice of candidacy. Effective Jan. 1, 2007.
2. **S.L. 2007-61 (S 1131). *District judge perform marriage.*** Amends GS 51-1 to authorize district judges to perform marriages between June 4 and June 8, 2007.
3. **S.L. 2007-104 (S 118). *Allow Governor to declare vacancy in judgeship or district attorney under certain circumstances.*** Adds GS 7A-410 and -410.1 to provide that Governor must declare office of judge or district attorney vacant when holder of office is no longer authorized to practice law and that salary of judge or district attorney is suspended immediately upon order of disbarment or suspension of license. Exempts those persons elected as judge without law license at time when judges were not required to be licensed to practice law. Effective June 21, 2007.

- 4. S.L. 2007-179 (S 659). *Elected court officials lose retirement benefits for certain felony convictions.*** Adds GS 135-75.1 to provide that judges, district attorneys and clerks of superior court lose their retirement (except for return of contributions) if they commit one of the State or federal corruption offenses specified in the statute while serving in one of those offices and the conduct on which the offense is based is directly related to their service as a judge, district attorney or clerk of superior court. Provides that member who has not vested on July 1, 2007 and who is convicted of an offense for acts committed after that date forfeits all benefits under the system and that a member who has vested on July 1, 2007 and is convicted for acts committed after that date is not entitled to any creditable service accrued after July 1, 2007. Person does not forfeit any benefit or creditable service from earned from position not as a judge, district attorney, or clerk of superior court. (This act also had similar provisions for legislators and elected State and local government officials.) Effective for offenses committed on or after July 1, 2007.
- 5. S.L. 2007-249 (S 1287). *IDS access to social security numbers.*** Amends GS 20-7(b2) to provide that DMV must disclose social security numbers of drivers' license applicants to the Office of Indigent Defense Services when needed for the purpose of verifying the identity of a represented client and enforcing attorneys' fees judgments. Effective July 20, 2007.
- 6. S.L. 2007-323 (H 1473). *Appropriations.***
- (a) Appropriates funds for additional personnel as follows:
    - (i) 77 positions in DA's offices in 2007-08, and an additional 75 in 2008-09 (58 are assistant DA's), with positions to be allocated by the AOC, except for 28 ADA's to be allocated by the legislature in 2008;
    - (ii) 150 deputy clerks in 2007-08 and an additional 147 in 2008, to be allocated by the AOC;
    - (iii) splits district 22 into 22A (Alexander and Iredell) and 22B (Davidson and Davie), effective January 1, 2009 and adds 14 positions, including new district court and superior court judge and new district attorney position;
    - (iv) 42 magistrate positions (21 in each year of biennium) to be allocated as specified in budget bill; nine district court judges, allocated in budget bill (Effective January 1, 2008, in districts 10, 11, 12, 18, 21, 26, and effective Jan. 15, 2009, in districts 5, 10, and 26);
    - (v) 16 new district court support staff positions (nine in 2007-08 and seven in 2008-09);
    - (vi) eight positions to expand family court into two more districts;
    - (vii) 15 positions in GAL program;
    - (viii) 14.75 positions to replace positions now funded for drug courts by grants and to add position at AOC administrative level;
    - (ix) five support positions in superior court (two in 2007-08 for new superior court judgeships, and three in 2008 to be allocated by AOC);
    - (x) two special superior court judgeships, effective Jan. 1, 2008;
    - (xi) two support positions in the Court of Appeals;
    - (xii) two positions in the Judicial Standards Commission (investigator and staff attorney); and
    - (xiii) 82 positions in the AOC (78 are in the technology division, two in financial services and two in research and planning).
  - (b) Increases daily rate paid to emergency judges to \$400 per day.

(c) Allows appellate judges who reside more than 50 miles from Raleigh one weekly round trip that is reimbursed by the state when on state business.

(d) Raises rate at which GAL attorneys are compensated from \$45 to \$65 per hour.

(e) Moves funding for District Attorneys and Clerk's Conferences from recurring funds to nonrecurring funds and requires Legislative Research Commission to study whether and on what conditions the DA's Conference should be continued; that study is to also consider current DA staffing levels; automation, case management practices of district attorneys, caseload management; findings of the study are due March 15, 2008.

(f) Allows Indigent Defense Services Commission to add additional positions in existing Public Defender Offices and allows IDS Commission to create additional public defender offices in 2008, subject to certain conditions. Adds new public defender offices in District 5 and District 29B.

(g) Adds new longevity step at 25 years for all officials now covered by the various judicial longevity programs.

(h) Adds Public Defenders to the Judicial Retirement program.

(i) Adds following fees: (1) Raises the General Court of Justice fee imposed in criminal court by \$10, with one of the additional dollars to be sent to the NC State Bar for funding legal services programs; (2) Raises the failure to appear fee from \$50 to 100 and assesses the fee when person fails to appear within 20 days instead of when the clerk sends an FTA to the DMV, thereby imposing the fee on all FTA's and not just motor vehicle FTA's, and eliminating the fee to imposed on reports to the DMV of failures to comply with orders to pay fines, etc.; specifies that this fee is to be paid to State Treasurer; (3) Raises General Court of Justice fees in civil court by \$14 in superior court, \$9 in district court and \$10 in small claims and estates cases, with one dollar of the additional amount to be paid to the State Bar for legal aid funding; (4) Raises the foreclosure fee from \$60 to 75, and the maximum amount of the additional amount that is based on the amount of the sale under a power of sale from \$300 to 500; (5) Raises criminal record check fee from \$10 to 15; (6) Raises the appearance fee for out of state attorneys from \$125 to 225; (6) Raises the costs for Civil Revocations under GS 20-16.5 (CVR's) from \$50 to 100, with half to go the General Fund, 25% to pay for the state's chemical testing program and 25% to go to counties to fund jail costs in enforcing impaired driving cases; (7) Establishes new fee of \$100 for issuance of a limited privilege under GS Ch. 20 (*As this is going to printing, there are possible changes to the way this fee is being established, and any changes will be distributed by the AOC*); Fees are generally effective August 1, 2007. For specific information on how to handle transitional issues, the AOC has provided guidance.

(j) Effective July 1, 2008, amends GS 7A-317 to eliminate the exemption previously conferred on local governments from advancing fees in civil cases.

(k) Amends GS 7A-321 to authorize the AOC to assess a collection assistance fee on amounts remaining unpaid by people not on supervised probation after 30 days; amount of the fee may not exceed the average cost of collection or 20%; also authorizes the AOC to use collection agencies, or use Setoff Debt Collection statutes; if the AOC imposes a collection assistance fee or uses a collection agency, it may not impose a collection fee pursuant to GS 115C-437 (which can be deducted from the amount paid to school boards as clear proceeds of fines or forfeitures). Effective August 1, 2007.

(l) Eliminates \$2 fees imposed by GS 130A-106; -107 for establishing facts relating to certain births. Effective August 1, 2007

(m) Amends GS 7A-305 to specify that costs apply to any subsequent action filed by amendment to an original action filed under GS Ch. 50B, unless the new action or amendment is also a Ch. 50B action. Effective August 1, 2007.



(n) Amends GS 7A-307(a)(2a) to specify that the fee assessed under that section on estate and trust assets does not apply to assets acquired by sale or exchange of property on which the fees had previously been assessed. Effective August 1, 2007

(o) Amend GS 7A-308(a)(12) to specify that the \$2 charge for copying the first page of a document applies to each document copied. Effective August 1, 2007.

7. **S.L. 2007-323 (H 1473). *Interpreter law changes.*** Amends GS 7A-314 to authorize AOC to pay for interpreter's services in criminal or GS Ch. 50B cases where necessary for the efficient transaction of business.
8. **S.L. 2007-323 (H 1473). *Counties pay court telephone costs.*** Amends GS 7A-302 to include among things counties must provide to court operations the following: Properly functioning telephones that meet AOC specifications, and the equipment and infrastructure to support those phones. Effective July 1, 2008
9. **S.L. 2007-512 (H 943). *State Registrar to assist jury comm'n's in updating juror lists.*** Amends GS 9-2 to require the jury comm'n to remove from the jury list names of residents who are deceased based on information supplied by the State Registrar and adds GS 130A-121 to require State Registrar to provide to each county's jury comm'n the names and addresses of all residents of the county who have died in the previous two years before July 1 of each odd-numbered year. (Requires list to be provided annually if annual list is being prepared.) Amends GS 20-43.4 to provide that the list of licensed drivers that the Comm'r of Motor Vehicles must give annually to the county jury comm'n's should not include the name of formerly licensed drivers whose license expired and has not been renewed for 8 or more years and deceased persons based on information supplied by the State Registrar. Also requires driver's information furnished to the jury comm'n to include social security number. Effective Oct. 1, 2007.
10. **S.L. 2007-484 (S 613). *Technical amendments.*** (1) Creates subdistrict 20D for one district court judge who was assigned to a district that ceased to exist by the time the judgeship was created. Now Union County is a set of districts for district court comprised of District 20B (one judge elected in part of Union County) , 20C (2 judges elected in part of Union County), and 20D (one judge elected county-wide). (2) Amends GS 7A-177(b) to provide that continuing education training courses for magistrates be provided conveniently available for magistrates and to delete requirement that training courses be held in Asheville. (3) Amends GS 84-2 prohibit magistrates (who are licensed to practice law in NC) from engaging in the private practice of law. Effective when bill becomes law.
11. **S.L. 2007-393 (S 1130). *Modify AOC's authority.*** Amends GS 143C-3-2, State Budget Act, to make it clear that Governor's budget must include estimates of financial needs of judicial branch submitted by he Chief Justice and any changes recommended by the Governor, to add operation of courts to special provision regarding growth of the budget, and to require Governor to consult with the Chief Justice to implement expenditure reductions. Authorizes AOC director to analyze use of contractor positions and, after consultation with Joint Legislative Comm'n on Governmental Operations, transfer to permanent State positions when in best interests of Judicial Dep't. Makes same amendment to GS 7A-177 regarding magistrate's continuing education training as provided in S.L. 2007- (S 613) digested above. Amends GS 7A-312 to authorize AOC to operate a pilot program in

one judicial district allowing jurors to waive per diem fees and designate that fee be used for various specified programs operating in the county. If juror does not designate program, fees waived go to Crime Victims Compensation Fund. Effective Oct. 1, 2007 except magistrate continuing education training effective August 20, 2007.