

2015 Legislation Affecting Criminal Law and Procedure

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Below are summaries of recently enacted legislation affecting criminal law and procedure. To obtain the text of the legislation, click on the link provided below or go to the North Carolina General Assembly's website, www.ncleg.net. (Once there, click on "Session Laws" on the right side of the page and then "2015-2016 Session" under "Browse Session Laws.") Be careful to note the effective date of each piece of legislation.

1. **[S.L. 2015-5 \(S 78\)](#): State correctional officers may carry concealed weapon when off-duty.** This session law adds a new subdivision (7) to G.S. 14-269(b), effective December 1, 2015, to provide that a state correctional officer may carry a concealed weapon when off-duty as long as the officer is not carrying the weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body. If the concealed weapon is a handgun, the officer must meet the firearms training standards of the Division of Adult Correction of the Department of Public Safety.
2. **[S.L. 2015-16 \(H 91\)](#): Study misuse of handicapped windshield placards.** The Division of Motor Vehicles is required to study ways to decrease the misuse of handicapped windshield placards. The study must include the cost, feasibility, and advisability of (1) requiring the inclusion of more personal identifying information on the placard, including the handicapped person's picture; (2) linking the placard to the handicapped person's driver's license or identification card; and (3) linking the placard to a license plate. The DMV must report its findings and recommendations to the Joint Legislative Transportation Oversight Committee by January 15, 2016.
3. **[S.L. 2015-18 \(H 601\)](#): Allow lawful sale of deer skins.** Amended G.S. 113-291.3(b), effective for deer lawfully taken on or after October 1, 2015, allows the skin of deer lawfully taken by hunting to be possessed, transported, bought, or sold, subject to tagging and reporting requirements and any season limits set by the Wildlife Resources Commission.
4. **[S.L. 2015-25 \(H 79\)](#): Clarify contempt remedy for violation of civil no-contact order.** Amended G.S. 50C-10 provides that a knowing violation of a civil no-contact order (which involves stalking or nonconsensual sexual conduct) is punishable by civil or criminal contempt under Chapter 5A of the General Statutes. The current statute simply states that a violation is punishable as contempt of court. This session law is effective for orders entered on or after October 1, 2015.
5. **[S.L. 2015-26 \(H 102\)](#): Authorize law enforcement officers and others to operate utility vehicles on certain public highways; include refuse, solid waste, or recycling vehicles to move-over law.** This session law amends G.S. 20-171.23 (motorized all-terrain vehicle may be operated by law enforcement officers and others on certain highways) and G.S. 20-171.24 (motorized all-terrain vehicle may be operated by city and county employees on certain highways) to add as an authorized vehicle a "utility vehicle" as defined in G.S. 20-4.01(48c), which is a motor vehicle designed for off-road use and used for general maintenance, security, agricultural, or horticultural purposes. G.S. 20-171.24 is also amended to make the statute applicable statewide; the current statute is limited to specified towns, cities, and counties. These provisions are effective May 21, 2015.

The session law also amends G.S. 20-157(f), commonly known as the move-over law that is applicable when there is an emergency vehicle parked or standing within 12 feet of the roadway and giving a warning signal, to include a vehicle that is being used for collection of refuse, solid waste, or

recycling. This amendment is effective for offenses committed on or after October 1, 2015.

6. **S.L. 2015-31 (S 90): Motor vehicles must have at least one brake light on each side of rear of vehicle.** Amended G.S. 20-129(g) and G.S. 20-129.1, effective for offenses committed on or after October 1, 2015, make clear that motor vehicles (other than a motorcycle, which only needs one stop lamp) must be equipped with stop lamps, commonly known as a brake lights, one on each side of the rear of the vehicle. This session law effectively overrules *State v. Heien*, 214 N.C. App. 515 (2011), which ruled that G.S. 20-129(g) only requires one stop lamp.
7. **S.L. 2015-29 (H 434): Medical recertification for renewal of removable windshield handicapped placard if totally and permanently disabled.** Amended G.S. 20-37.6(c1), effective July 1, 2016, provides that medical recertification is not required for renewals of removable windshield handicapped placards if the person is certified as totally and permanently disabled.
8. **S.L. 2015-32 (H 659): Add types of prior convictions for Class H felony offense of possessing pseudoephedrine.** Amended G.S. 90-95(d1)(1)c. adds the types of prior convictions for the Class H felony offense of possession of pseudoephedrine to include possession with intent to sell or deliver methamphetamine, trafficking methamphetamine, and possession of an immediate precursor chemical (current law only includes prior convictions of possession or manufacture of methamphetamine). Additional precursor chemicals are added to the list set out in G.S. 90-95(d2). The Joint Legislative Commission on Justice and Public Safety is authorized to study the current state and federal law regarding the authority of state agencies to schedule controlled substances without legislative action and the procedure to schedule or reschedule. This session law is effective December 1, 2015, and applies to offenses committed on or after that date.
9. **S.L. 2015-36 (S 445): New provisions to protect clients of facilities providing care, treatment, habilitation, or rehabilitation of people with mental illness, developmental disabilities, or substance abuse disorders.** Amended G.S. 122C-66(a) increases from a Class 1 misdemeanor to a Class A1 misdemeanor when an employee or volunteer at a facility knowingly causes pain or injury to a client other than as a part of a generally accepted medical or therapeutic procedure. New G.S. 122C-66(a1) provides that an employee or volunteer at a facility who borrows or takes personal property from a client commits a Class 1 misdemeanor. Amended G.S. 122C-66(b) increases the punishment from a Class 3 misdemeanor to a Class 1 misdemeanor when an employee or volunteer at a facility witnesses or knows of a violation of subsections (a) or (a1) of G.S. 122C-66 or an accidental injury to a client and fails to report it to authorized personnel designated by the facility. New G.S. 122C-66(b1) provides that an employee or volunteer at a facility who witnesses a client become a victim of a violation of Article 7A (rape and other sex offenses) or Article 26 (offenses against public morality and decency) of Chapter 14 must report the violation within 24 hours to the county department of social services, the district attorney, or local law enforcement agency. A failure to report is a Class A1 misdemeanor. All of these provisions are effective for offenses committed on or after December 1, 2015.
10. **S.L. 2015-40 (H 224): Provisions concerning conditional discharge and deferred prosecution.** This session law revises G.S. 15A-150(a), effective for conditional discharges granted on or after December 1, 2015, to add a new subdivision (a)(6) to require the clerk of superior court to file with the Administrative Office of the Courts (AOC), as soon as practicable after each court term, the names of people granted a dismissal on completion of a conditional discharge under G.S. 14-50.29, 14-204, 14-313(f), 15A-1341(a4), 90-96, or 90-113.14. The substantive change is adding to G.S. 15A-

150(a) the citations to G.S. 14-313(f) (conditional discharge for offenses involving youth access to tobacco products) and G.S. 15A-1341(a4) (conditional discharge for certain Class H and I felonies and misdemeanors), because the other statutory provisions are currently listed in G.S. 15A-150(a)(2), (a)(3), and (a)(5), but are moved to new subdivision (a)(6). Amended G.S. 15A-1342(a1), effective July 1, 2015, clarifies that a court may order the Community Corrections Section to supervise an offender's compliance with the terms of any conditional discharge or deferred prosecution agreement (current law is limited to a discharge or agreement entered into under G.S. 15A-1341(a1), (a3), or (a4)). Amended G.S. 15A-151(a)(4), effective July 1, 2015, includes an expunction under G.S. 15A-145.6 (expunction for certain prostitution convictions) to the AOC's authority to disclose certain expunctions to state and local law enforcement agencies for employment purposes.

11. [S.L. 2015-41](#) (H 295): Division of Juvenile Justice may determine whether it is appropriate to release certain information about escaped delinquent juvenile. Amended G.S. 7B-3102(a), effective May 29, 2015, provides that the Division of Juvenile Justice, Department of Public Safety, may release, if appropriate (currently law is mandatory), a statement about an escaped juvenile delinquent to the public concerning the Division's level of concern about the juvenile's threat to himself or herself or others. The determination whether to release this information must be made by the Division's Deputy Commissioner or his or her designee.

12. [S.L. 2015-43](#) (H 82): Court may authorize officer, when executing a nonsecure custody order alleging abuse, neglect, and dependency, to enter private property and make a forcible entry. Amended G.S. 7B-504 allows a court—if it finds based on a petition alleging abuse, neglect, or dependency or the petitioner's testimony that a less intrusive remedy is unavailable—may authorize a law enforcement officer to enter private property to take physical custody of the juvenile. If required by exigent circumstances, the court may authorize an officer to make a forcible entry at any hour. This session law is effective for orders issued on or after June 2, 2015.

13. [S.L. 2015-44](#) (H 113): Increase criminal punishment for sex offenses committed against a student by school personnel other than teacher and others. Amended G.S. 14-27.7(b) (school personnel, other than teacher, school administrator, student teacher, school safety officer, or coach, who is less than four years older than student victim, commits vaginal intercourse with student) increases the punishment from a Class A1 misdemeanor to a Class I felony. Amended G.S. 14-202.4(b) (school personnel, other than teacher, school administrator, student teacher, school safety officer, or coach, who is less than four years older than student victim, takes indecent liberties with student) increases the punishment from a Class A1 misdemeanor to a Class I felony. Amended G.S. 14-202.4(d) provides that the definition of "school personnel" includes those employed by a nonpublic, charter, or regional school. These amendments are effective for offenses committed on or after December 1, 2015.

Amended G.S. 14-208.15 (sex offender registration), effective December 1, 2015, provides that on request of an institution of higher education, the sheriff of the county in which the institution is located must provide registry information for any registrant who has stated he or she is a student or employee or expects to become one. Sets out additional provisions about a report of information from the registry.

14. [S.L. 2015-47](#) (H 294): Criminal offense to provide a cell phone to delinquent juvenile in custody of Department of Public Safety. Amended G.S. 14-258.1, effective for offenses committed on or after December 1, 2015, provides that it is a Class H felony knowingly to give or sell a cell phone or other wireless communications device to a delinquent juvenile in the custody of the Division of Juvenile

Justice of the Department of Public Safety. It makes clear that the offense applies to a juvenile confined in a youth development center or detention facility and also applies when the juvenile is transported to or from confinement.

15. **[S.L. 2015-48](#) (H 570): Duty to identify outstanding arrest warrants.** Amended G.S. 15A-301.1 provides that when a person is taken into custody, the custodial law enforcement agency must attempt to identify all outstanding warrants and notify appropriate law enforcement agencies of the person's location. The same duty is imposed on a court before entering any court order in a criminal case. Newly-enacted G.S. 148-10.5 requires the Division of Adult Correction of the Department of Public Safety to work with law enforcement, district attorneys' offices, and courts to develop a process at intake and before release to identify all outstanding warrants for an inmate and to resolve them while he or she is in custody, if feasible. The inmate must be notified of the outstanding warrant and any right to counsel. This session law is effective October 1, 2015.
16. **[S.L. 2015-49](#) (H 595): Former or current military police officers under certain circumstances may be certified as law enforcement officers without completing training course.** Newly-enacted G.S. 17C-10.1 provides that for law enforcement certification, former or current military police officers under certain circumstances are not required to complete an accredited Criminal Justice Education and Training Standards Commission training course. Amended G.S. 17C-3 adds three additional members to the Commission: (1) Director of State Bureau of Investigation; (2) Commander of State Highway Patrol; and (3) juvenile justice officer employed by the Juvenile Justice Section, to be appointed by the Governor. This session law is effective on June 3, 2015.
17. **[S.L. 2015-50](#) (H 405): Civil action for damages when person exceeds scope of authorized access to property.** Newly-enacted G.S. 99A-2, effective for acts committed on or after January 1, 2016, provides that a person who intentionally accesses nonpublic areas of another's premises and engages in an act exceeding the person's authority to enter those areas is liable to the owner or operator of the premises for any damages sustained. A court may award one or more of the following remedies: (1) equitable relief; (2) compensatory damages as otherwise allowed by state or federal law; (3) costs and fees, including reasonable attorneys' fees; and (4) exemplary damages as otherwise allowed by state or federal law in the amount of \$5,000.00 for each day or a portion of a day that a violation occurs. The session law provides that it does not apply to any governmental agency or law enforcement officer engaged in a lawful investigation of the premises or the owner or operator of the premises. It also provides that its provisions do not diminish the protections provided to employees under Article 21 (retaliatory employment discrimination) of Chapter 95 and Article 14 (protection for reporting improper government activities) of Chapter 126 of the General Statutes.
18. **[S.L. 2015-58](#) (H 879): Various juvenile delinquency law changes.** This session law, effective for offenses committed on or after December 1, 2015, makes various changes to juvenile delinquency law.
 - Custodial interrogation age change.** Current G.S. 7B-2101(b) provides that when a juvenile is less than 14 years old, an in-custody admission or confession resulting from interrogation may not be admitted into evidence unless it was made in the presence of the juvenile's parent, guardian, custodian, or attorney. The session law amends this statute to make it applicable to a juvenile who is less than 16 years old.
 - Adjudicatory hearing.** Amended G.S. 7B-2202 (probable cause hearing) and 7B-2203 (transfer hearing) provides that the adjudicatory hearing for a misdemeanor after finding no probable cause

for a felony or for an offense after the court does not transfer the offense to superior court, respectively, shall be a separate hearing, and the court may continue this hearing for good cause.

Suppression motion made before adjudicatory hearing. New G.S. 7B-2408.5 provides that a motion to suppress evidence made before the adjudicatory hearing must be in writing and a copy of the motion must be served on the State. The remainder of the statute is substantially identical to G.S. 15A-977 (motion to suppress in superior court; procedure), with the following additional provisions. An order denying a suppression motion may be reviewed on an appeal of a final order of the court in the juvenile matter, and the provisions of G.S. 15A-974 (statutory exclusionary rule) are applicable to G.S. 7B-2408.5.

Preliminary inquiry by juvenile court counselor. Amended G.S. 7B-1701 provides that if a complaint against a juvenile has not been previously received, as determined by the juvenile court counselor, the counselor must make reasonable efforts to meet with the juvenile and his or her parent, guardian, or custodian if the offense is divertible.

Prosecutor make take voluntary dismissal or dismissal with leave. Amended G.S. 7B-2404 provides that a prosecutor may take a voluntary dismissal of allegations in a juvenile petition with or without leave either orally in court or by filing a written dismissal with the clerk. The statute sets out the duty to notify various people of the dismissal. If the prosecutor takes a dismissal with leave because the juvenile failed to appear in court, the prosecutor may refile the petition if the juvenile is apprehended or apprehension is imminent.

What constitutes prior adjudication for delinquency history levels. Amended G.S. 7B-2507 (delinquency history levels) provides that a prior adjudication is an adjudication of an offense that occurs before the adjudication of the offense before the court.

Extension of probation. Amended G.S. 7B-2510(c) provides that before the expiration of an order of probation, the court may extend the term for an additional period of one year, after *notice* and a hearing (current law requires a hearing but not notice). At the court's discretion, the hearing to determine to extend probation may occur after the expiration of a probation order at the next regularly scheduled court date or if the juvenile fails to appear in court. Amended G.S. 7B-2510(e) (new disposition authorized after probation violation) to provide that the court may order either (1) a new disposition at the next higher level on the disposition chart or (2) a term of confinement in a secure juvenile detention facility for up to twice the term authorized by G.S. 7B-2508, but not both as allowed under the current statute.

Dispositional order and dispositional alternatives. Amended G.S. 7B-2512 requires the court to include information when issuing a dispositional order, either orally in court or in writing, on the expunction of juvenile records as provided for in G.S. 7B-3200 that are applicable to the order. Amended G.S. 7B-2506(12) and (20), involving dispositional alternatives, make clear that the court determines the timing and imposition (underlined words added) of the confinement set out in the statute.

Notice of Right to Expunction. New G.S. 7B-2512(b) requires the trial judge at the time of entering a disposition to inform the juvenile, either orally or in writing, of the juvenile's right to expunction under G.S. 7B-3200 if relevant to the juvenile's case.

Secure custody changes. Amended G.S. 7B-1903 provides that as long as the juvenile remains in secure custody, further hearings on continued secure custody must be held at intervals of no more than 10 calendar days, but may be waived for no more than 30 calendar days only with the consent of the juvenile through the juvenile's counsel. The order for continued secure custody must be in writing with appropriate findings of fact. The statute is also amended to provide that if the court finds there is a need for an evaluation of a juvenile for medical or psychiatric treatment under subsection (b) of the statute and the juvenile is under 10 years old and does not have a pending delinquency charge, the law enforcement officer or other authorized person assuming custody of

the juvenile may not use physical restraints during the transport of the juvenile to the designated place set out in the order, unless in the officer's or other authorized person's discretion the restraints are reasonably necessary for safety reasons.

19. **S.L. 2015-62 (H 465): Various criminal and civil law changes.** This session law, called the "Women and Children's Protection Act of 2015," makes various criminal and civil changes, although not all of the civil changes will be summarized here.

Statutory rape or sexual offense changes. G.S. 14-27.7A (statutory rape or sexual offense) currently applies to a victim who is 13, 14, or 15 years old. This session law, effective for offenses committed on or after December 1, 2015, changes the age of the victim in both subsections (a) and (b) to a victim who is 15 years old or younger. It also adds a proviso to the Class C felony in subsection (b) that the offense applies unless the conduct is covered under some other provision of law providing greater punishment.

Chapters 50B (domestic violence protective orders) and 50C (civil no-contact orders) changes. New G.S. 7A-343.6, effective June 5, 2015, authorizes the Administrative Office of the Courts (AOC) to develop a program in district court for electronic filing in Chapters 50B and 50C cases. To implement the program, each chief district court judge must draft local rules and submit them to the AOC for approval. The local rules must permit the clerk of superior court to accept electronically-filed complaints requesting domestic violence protective orders under Chapter 50B or civil no-contact orders under Chapter 50C that are transmitted from a domestic violence program as defined in G.S. 8-53.12. The authorization for local rules shall be superseded by the promulgation of uniform state rules by the North Carolina Supreme Court.

The following changes are effective for documents filed and hearings held on or after December 1, 2015. Amended G.S. 50B-2 provides that all documents filed, issued, registered, or served in an action under Chapter 50B concerning an ex parte, emergency, or permanent domestic violence protective orders may be filed electronically. Hearings held to consider ex parte relief under G.S. 50B-2(c) may be held via video conference, but hearings held to consider emergency or permanent relief under G.S. 50B-2(a) or (b) shall not be held via video conference. Similar changes are made to Chapter 50C's provisions.

New non-capital sentencing aggravating factor. Amended G.S. 15A-1340.16(d) adds a new non-capital sentencing aggravating factor, applicable to offenses committed on or after December 1, 2015, when the defendant committed an offense and knew or reasonably should have known that a person under 18 who was not involved in the commission of the offense was in a position to see or to hear the offense.

Expand definition of "in the presence of a minor" in assault offense. Amended G.S. 14-33(b) (assault on person with whom defendant has personal relationship), applicable to offenses committed on or after December 1, 2015, expands the definition of "in the presence of a minor" to include a minor who was in the position to hear as well as to see the assault.

Expand domestic violence cases subject to special bail and pretrial release conditions under G.S. 15A-534.1. Amended G.S. 15A-534.1 (domestic violence cases subject to special bail and pretrial release conditions), applicable to offenses committed on or after December 1, 2015, adds a case subject to the statute in which the victim of the enumerated crimes is a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6).

Expand applicability of offense involving sex offender unlawfully on premises. Amended G.S. 14-208.18(c)(1), applicable to offenses committed on or after December 1, 2015, expands the applicability of the crime involving a sex offender unlawfully on premises to a person required to register as a sex offender for any federal offense or offense committed in another state, which if committed in North Carolina, is substantially similar to an offense in Article 7A (rape and other sex

offenses) of Chapter 14.

Various changes to abortion provisions. Various amendments relating to abortions are made to G.S. 14-45.1 (when abortion is not unlawful), G.S. 90-21.82 (informed consent to abortion), and G.S. 90-21.86 (procedure when medical emergency requires abortion), but they will not be summarized here.

- 20. [S.L. 2015-66](#) (H 222): Elected North Carolina Supreme Court justices subject to retention election.** New Article 1A of Chapter 7A of the General Statutes, effective June 11, 2015, provides that a justice of the North Carolina Supreme Court who was elected to that office by the voters who desires to continue in office shall be subject to approval by the voters in a retention election at the general election immediately preceding the expiration of the expired term. Approval is by a majority of the votes cast.
- 21. [S.L. 2015-71](#) (H 352): Standard of proof changed in civil lawsuit against 911 operators.** New G.S. 99E-56, effective for a cause of action arising on or after June 11, 2015, provides that in a civil action arising from any act or omission by the defendant in performing any lawful and prescribed actions concerning the defendant's assigned duties as a 911 or public safety telecommunicator or dispatcher, the plaintiff's burden of proof shall be by clear and convincing evidence (the typical burden of proof is preponderance of evidence, which is a lesser burden than clear and convincing evidence).
- 22. [S.L. 2015-72](#) (H 552): New criminal offense of graffiti vandalism.** New G.S. 14-127.1 creates the new offense of graffiti vandalism, which is defined as the unlawful writing or scribbling on, painting, defacing, etc., the walls of (1) any real property, public or private; (2) any public building or facility as defined in G.S. 14-132; or (3) any statue or monument situated in any public place. A person convicted of this offense is guilty of a Class 1 misdemeanor and shall be fined a minimum of \$500 and, if community or intermediate punishment is imposed, shall be required to perform 24 hours of community service. It is a Class H felony if the defendant commits graffiti vandalism and has two or more prior graffiti vandalism convictions, if the current violation was committed after the second conviction, and the violation resulting in the second conviction was committed after the first conviction. Amended G.S. 14-132 (disorderly conduct and injuries to public buildings and facilities) adds a proviso in subsection (d) that it is a Class 2 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment. This session law is effective for offenses committed on or after December 1, 2015.
- 23. [S.L. 2015-73](#) (H 574): State wildlife laws are not applicable to opossums between December 29 and January 2.** This session law, effective June 11, 2015, provides that state or local statutes, rules, regulations, or ordinances related to the capture, captivity, treatment, or release of wildlife do not apply to the Virginia opossum between December 29 of each year and January 2 of each subsequent year.
- 24. [S.L. 2015-74](#) (H 691): Felony to assault member of North Carolina National Guard discharging official duties.** New G.S. 14-34.7(a1) provides that unless covered under another provision of law providing greater punishment, it is a Class F felony to assault a member of the North Carolina National Guard (NCNG) while he or she is discharging or attempting to discharge official duties and inflict serious bodily injury. Amended G.S. 14-34.7(c) provides that it is a Class I felony to assault a NCNG member while he or she is discharging or attempting to discharge official duties and inflict physical injury. Amended G.S. 14-34.5 provides that it is a Class E felony to assault with a firearm a

NCNG member while he or she is performing duties. This session law applied to offenses committed on or after December 1, 2015.

25. **S.L. 2015-87 (S 83): False lien filing law involving property of public officer or employee is amended.** This session law, effective for filings on or after October 1, 2015, adds a new subsection (b1) to G.S. 14-118.6 (filing false lien or encumbrance against public officer or employee's property) to provide when a lien or encumbrance (hereafter, lien) as described in subsection (a) is presented to the clerk of superior court for filing and the clerk has a reasonable suspicion that it is false, the clerk may refuse to file the lien. Neither the clerk nor the clerk's staff are liable for filing or refusing to file a lien. The clerk must not file, index, or docket the document against the property of a public officer or employee until that document is approved for filing by the clerk by any judge of the judicial district having subject matter jurisdiction. The procedure for judicial review and court orders are set out in this new subsection.
26. **S.L. 2015-89 (S 161): North Carolina Supreme Court may hold sessions in Morganton.** Amended G.S. 7A-10(a), effective June 19, 2015, authorizes the North Carolina Supreme Court to hold sessions not more than twice annually in the City of Morganton, and unless a more suitable site is identified, the court must meet in the Old Burke County Courthouse.
27. **S.L. 2015-91 (S 60): Establishing permanent civil no-contact order against sex offender on behalf of crime victim.** This session law adds new Chapter 50D to the General Statutes to authorize a civil action in district court to obtain a permanent civil no-contact order against a person who committed a sex offense, defined as any criminal offense that requires sex offender registration under Article 27A of Chapter 14. The permanent no-contact order is a permanent injunction for the lifetime of the offender that prohibits any contact by the offender with the victim of the sex offense for which the offender has been convicted. The civil action may be brought by the victim or an adult residing in the state on behalf of a minor victim or an incompetent adult for a sex offense that occurred in the state. This new law sets out the required court findings before issuing the permanent no-contact order and types of relief that the court may grant, all related to no contact with the victim. A victim may file a motion for contempt for a violation of the order. A person who knowingly violates a court order is guilty of a Class A1 misdemeanor. A law enforcement officer must arrest a person, with or without a warrant or other process, if the officer has probable cause that the person knowingly has violated a non-contact order. The Administrative Office of the Courts must develop forms to implement the processes established by this new law, including amending the Rules of Recordkeeping to require the clerk of superior court to retain the records of an action filed under the law. The provisions described above are effective October 1, 2015.
Amended G.S. 14-50.43(d), effective June 19, 2015, (court order involving criminal street gangs) provides that a court order, which expires one year after entry, may be extended by the court for good cause established by the plaintiff after a hearing.
28. **S.L. 2015-94 (S 154): Amendments to immunity provisions for drug-related and alcohol-related overdoses.** The session law is effective for offenses committed on or after August 1, 2015. Amended G.S. 90-96.2 (drug-related overdose treatment; limited immunity) provides that a person may not be prosecuted for certain drug offenses (no offense changes from current law) if all of the following exist: (1) the person sought medical assistance for another person experiencing a drug-related overdose by contacting 911, a law enforcement officer, or emergency medical services personnel; (2) the person acted in good faith when seeking medical assistance and reasonably believed that he or she was the first to call for assistance; (3) the person provided his or her own name to 911 or to

an officer on arrival; (4) the person did not seek medical assistance during the course of the execution of an arrest warrant or search warrant, or other lawful search; and (5) the evidence for prosecution of the offense was obtained as a result of the person seeking medical assistance for the drug-related overdose. Immunity also is extended to the overdose victim if all but (3), above, are satisfied. A person is not subject to arrest or revocation of pretrial release, probation, parole, or post-release if the arrest or revocation is based on the offense for which the person has immunity from prosecution. A law enforcement officer is not subject to civil liability when he or she in good faith arrests or charges a person later determined to be entitled to immunity under the statute. Amended G.S. 18B-302.2 (alcohol-related overdose treatment; limited immunity) makes similar changes as described above. Amended G.S. 90-106.2 provides that a pharmacist: (1) may dispense an opioid antagonist to a person with an opiate-related overdose pursuant to a prescription issued under the conditions set out in subsection (b) of the statute; and (2) is immune from civil or criminal liability for an authorized action.

- 29. [S.L. 2015-97](#) (H 560): **Felony to assault hospital personnel and healthcare providers.**** Amended G.S. 14-34.6(a)(3), effective for offenses committed on or after December 1, 2015, provides that it is a Class I felony to assault and cause physical injury to hospital personnel and licensed healthcare providers who are providing or attempting to provide health care services to a patient in a hospital. The current statute describes the victims as “emergency department personnel: physicians, physician assistants, nurses, and licensed nurse practitioners.”
- 30. [S.L. 2015-98](#) (H 909): **Various changes to Alcohol Beverage Control Commission laws.**** This session law makes various ABC law changes. (1) The sale of antique spirituous liquor is authorized and regulated, effective on the adoption (no later than September 1, 2015) of temporary rules by the ABC Commission. (2) Amended G.S.18B-102, effective June 19, 2015, makes it a Class 1 misdemeanor when a person manufactures, sells, transports, consumes, possesses, etc., powdered alcohol, which is defined in amended G.S. 18B-101. (3) Effective June 19, 2015, the Eastern Band of Cherokee Indians tribal alcoholic beverage control commission is authorized to issue wine shipper permits and commercial ABC permits, and it is made clear that the commission maintains the exclusive authority to issue certain permits. (4) Distillery permit holders are authorized to sell spirituous liquor distilled on premises to visitors of the distillery for consumption off the premises, effective on the adoption (no later than October 1, 2015) of temporary rules by the ABC Commission. (5) Effective June 19, 2015, certain ABC permittees are allowed to sell cider in certain containers for consumption off the permitted premises and technical changes are made to the laws concerning the sale of malt beverages in growlers. (6) Effective June 19, 2015, alternating proprietorships for breweries are authorized. (7) Effective June 19, 2015, the holder of a brewery permit is allowed to sell malt beverages to a nonresident wholesaler if the malt beverages are shipped from the brewery to licensed wholesalers. (8) Effective June 19, 2015, the ABC Commission is authorized to issue guest room cabinet permits to certain 18-hole golf courses.
- 31. [S.L. 2015-105](#) (S 212): **Retired law enforcement officer’s qualifications for concealed handgun permit.**** Amended G.S. 14-415.12A, effective October 1, 2015, provides that a person applying for a concealed handgun permit who is a qualified retired law enforcement officer and has met the standards for handgun qualification for active officers within the last 12 months satisfies the requirement that an applicant successfully complete an approved firearms safety and training course.

- 32. [S.L. 2015-108](#) (S 621): Division of Motor Vehicles may send vehicle registration renewal notification by e-mail to owner.** Amended G.S. 20-66(a) provides that upon receiving written consent from the vehicle owner, the Division of Motor Vehicles may send the required notice of renewal of a vehicle registration electronically to an e-mail address provided by the owner. A similar provision is added to G.S. 105-330.5(b) so the Property Tax Division of the Department of Revenue or a third-party contractor may send by e-mail a copy of the combined tax and registration notice for a registered classified motor vehicle. This session law is effective January 1, 2016.
- 33. [S.L. 2015-123](#) (S 578): Transfer of abuse and neglect investigations in child care facilities to Division of Child Development and Early Education in Department of Health and Human Services.** This session law, effective January 1, 2016, transfers investigations of child abuse and neglect occurring in a child care facility from a county social services department to the Department of Health and Human Services (hereafter, Department), Division of Child Development and Early Education. New G.S. 110-105.3 describes the investigative authority as applicable to instances of child maltreatment in child care facilities. Child maltreatment is defined as any act or series of acts of commission or omission by a caregiver that results in harm, potential for harm, or threat of harm to a child, including physical, sexual, and psychological abuse, failure to provide for the physical, emotional, or medical well-being of a child, and failure to properly supervise children that results in exposure to potentially harmful environments. The statute sets out in detail the investigative duties and responsibilities of the Department and others, including requiring the Department to contact law enforcement when the report alleges maltreatment that would be considered misdemeanor or felony child abuse. The Department may also request the assistance of local law enforcement or a county department of social services. New G.S. 110-105.4 requires that any person who has cause to suspect that a child in a child care facility had been maltreated or has died as the result of maltreatment in a child care facility, must report the maltreatment to the Department (and not the county department of social services), and specifies the content of the report and that it may be made orally, by telephone, or in writing. The Department must notify the State Bureau of Investigation within 24 hours or on the next workday on receiving a report of maltreatment involving sexual abuse of a child in a child care facility or of suspecting sexual abuse occurred there when assessing a report based on different maltreatment grounds. New G.S. 110-105.5 requires the Department to establish and maintain a Child Maltreatment Registry containing the names of all caregivers who have been confirmed by the Department of having maltreated a child in a child care facility. New G.S. 110-105.6 sets out penalties for child maltreatment in child care facilities, including (1) that child maltreatment is a violation of Article 7 of G.S. Chapter 110, licensure standards, and licensure laws; (2) various departmental administrative actions, including summary suspension, revocation of a facility's child care license, and placement on the Child Maltreatment Registry; and (3) unannounced visits by the Department to determine whether corrective action by the facility has occurred.
- 34. [S.L. 2015-124](#) (H 55): North Carolina State University included in law permitting fireworks.** Amended G.S. 14-410(a1)(3) and 14-413 are amended, effective Jun 29, 2015, to permit fireworks on lands or buildings in Wake County owned by The University of North Carolina or North Carolina State University.
- 35. [S.L. 2015-125](#) (H 148): Moped owners must have insurance.** Various provisions of G.S. Chapters 20 and 58 are amended, effective for offenses committed on or after July 1, 2016 (note the year in this date) as follows: They provide that in order to register a moped, a person must have proof of financial responsibility for the operation of the moped, which requires proof of a person's ability to

respond to damages for liability in the same amounts required for operators of other types of motor vehicles. Because the financial responsibility requirement is tied to the registration requirement, liability insurance covering the operation of the moped is only required if the moped is to be operated on a street or highway. The Rate Bureau does not promulgate rates for liability insurance or theft and physical damage insurance on mopeds. Instead rates are regulated through Article 40 of Chapter 58. Moped liability insurance or theft and physical damage insurance may, however, be added as an endorsement to a liability and physical damage policy issued for another type of motor vehicle. In addition, liability insurance on mopeds cannot be ceded to the reinsurance facility.

Amended G.S. 20-286(10), effective July 1, 2015, clarifies that the sale and manufacture of mopeds is not subject to the motor vehicle dealers and manufacturers licensing law. Amended G.S. 20-53.4, effective July 1, 2015, provides that a moped owner is not required to apply for, and the Division of Motor Vehicles is not required to issue, a certificate of title.

- 36. [S.L. 2015-135 \(S 423\)](#): Application for limited learner’s permit and provisional driver’s license by minor in legal custody of social services department.** Amended G.S. 20-11(i), effective October 1, 2015, adds to the list of people other than the applicant who may sign an application for a limited learner’s permit or provisional driver’s license by a person under 18 years old, with respect to a minor in the legal custody of a county social services department, to include a guardian ad litem and the director of the department, among others.
- 37. [S.L. 2015-141 \(S 286\)](#): Electronic cigarettes, cigars, etc., regulated.** New G.S. 14-401.18A, effective for offenses committed on or after December 1, 2015, makes it a Class A1 misdemeanor for any person, firm, or corporation to sell, offer for sale, or introduce into commerce in North Carolina (1) an e-liquid container unless the container has child-resistant packaging; and (2) an e-liquid container for an e-liquid product containing nicotine unless the packaging states the product contains nicotine. The statute defines “child-resistant packaging,” “e-liquid” (liquid product, whether or not containing nicotine, intended to be vaporized and inhaled as vapor product), “e-liquid container” (container of e-liquid but term excludes container holding liquid intended for use in vapor product if container is pre-filled and sealed by manufacturer and not intended to be opened by consumer), and “vapor product” (term includes e-cigarette, e-cigar, e-cigarillo, and e-pipe). A violator of these provisions is liable in damages to any person injured as a result of the violation.
- 38. [S.L. 2015-144 \(H 640\)](#): Wildlife law changes.** This session law makes several changes affecting wildlife laws, but this summary will focus on just two of them. Amended G.S. 113-276.3(d), effective October 1, 2015, adds a third or subsequent conviction of G.S. 14-159.6(a) (trespass on posted property to hunt, fish, or trap without written permission) to the list of offenses for which there is a two-year license or permit suspension. Current G.S. 103-2 prohibits hunting on Sunday except in defense of one’s property and under other limited exceptions. Amended G.S. 103-2, effective October 1, 2015, adds a provision to provide that a landowner or member of the landowner’s family, or any person with the landowner’s permission, may hunt with firearms on Sunday on the landowner’s property, except for the following Sunday limitations (1) hunting between 9:30 a.m. and 12:30 p.m. is prohibited, except on controlled hunting preserves; (2) hunting of migratory birds is prohibited; (3) using a firearm to take deer that are run or chased by dogs is prohibited; (4) hunting within 500 yards of a place of worship or accessory structure or within 500 yards of a residence not owned by the landowner is prohibited; and (5) hunting in a county with a population greater than 700,000 people is prohibited. A violation of G.S. 103-2 remains a Class 3 misdemeanor. Amended G.S. 153A-129 allows a county to adopt an ordinance (with certain required provisions) prohibiting hunting on Sunday as allowed under G.S. 103-2, but the ordinance cannot take effect

until October 1, 2017.

39. S.L. 2015-145 (H 255): Building code enforcement changes. This session law, effective October 1, 2015, makes many changes concerning the North Carolina Building Code, but only a few will be summarized here. Amended G.S. 153A-352 (county) and 160A-412 (city) require that (1) inspections be done “in a timely manner” (quoted words added); and (2) inspectors must conduct all inspections requested by the permit holder for each scheduled inspection visit when performing inspections as required by the state building code. For each requested inspection, the inspector must inform the permit holder when the work inspected is incomplete or otherwise fails to meet the requirements of the state residential code for one- and two-family dwellings. Amended G.S. 153A-356 (county) and 160A-416 (city), which currently make it a Class 1 misdemeanor when an inspector willfully fails to perform duties, provides that it is not a violation when the county or city, its inspection department, and inspectors accept a signed written document of compliance with the state building code or residential code for one- and two-family dwellings from a licensed architect or engineer under new G.S. 153A-352(c) or new 160A-412(c).

40. S.L. 2015-150 (H 273): DWI changes concerning deferred prosecution and conditional discharge, expungement, and sentencing hearing when withdrawal of trial de novo appeal. Amended G.S. 15A-1341(a), effective for an order placing a person on probation on or after December 1, 2015, provides that, if the person is being placed on probation for a conviction of impaired driving under G.S. 20-138.1, subsections (a1) and (a4) (deferred prosecution and conditional discharge, respectively, for a person charged with a Class H or I felony or a misdemeanor), and subsections (a2) and (a5) (deferred prosecution and conditional discharge for drug treatment program), do not apply and the person is ineligible for deferred prosecution and conditional discharge under these provisions.

Amended G.S. 15A-145 (expunction of misdemeanor conviction for first offender under 18), G.S. 15A-145.4 (expunction of nonviolent felony conviction for first offender under 18), and G.S. 15A-145.5 (expunction of certain nonviolent misdemeanor or felony convictions without age limitation), prohibit an expunction for any offense involving impaired driving as defined in G.S. 20-4.01(24a). These changes are effective for petitions filed or pending on or after December 1, 2015.

Amended G.S. 20-38.7 (appeal to superior court after conviction of impaired driving and other implied consent offenses), effective for appeals filed on or after December 1, 2015, deletes the provision that required the consent of a prosecutor and superior court judge to remand a case to district court, thus making remand on this issue subject to G.S. 15A-1431 and the consent provision set out in (3), below. It also provides that when an appeal is withdrawn or a case is remanded, the district court must hold a new sentencing hearing and consider any new convictions unless one of the following conditions is met: (1) if the appeal is withdrawn under G.S. 15A-1431(c) (within 10 days of entry of district court judgment), the prosecutor has certified in writing to the clerk that there are no new sentencing factors; (2) if the appeal is withdrawn and remanded under G.S. 15A-1431(g) (before calendaring of case for trial de novo), the prosecutor has certified in writing to the clerk that there are no new sentencing factors; (3) if the appeal is withdrawn and remanded under G.S. 15A-1341(h) (after calendaring of case for trial de novo), the prosecutor has certified in writing to the clerk that he or she consents to the withdrawal and remand and that there are no new sentencing factors.

41. S.L. 2015-152 (H 39): Criminal penalty when illegal operation of amusement device causes serious injury or death. This session law makes several changes to laws concerning an “amusement device” (defined in G.S. 95-111.3), including increasing the civil penalties set out in G.S. 95-111.13, but this

summary focuses on one criminal provision. Amended G.S. 95-113.13, effective for a violation occurring on or after December 1, 2015, provides that a person who willfully violates any provision of Article 14B of Chapter 95 of the General Statutes, which includes the illegal operation of an amusement device, and the violation causes serious injury to or death of any person is guilty of a Class E felony, which must include a fine.

42. **[S.L. 2015-154 \(H 766\)](#): Hemp extract exemption modified.** This session law makes several changes to the law permitting the use of hemp extract as an alternative treatment for intractable epilepsy, but this summary focuses on one criminally-related provision. Amended G.S. 90-94.1, effective for offenses committed on or after August 1, 2015, modifies the permissible amount of hemp extract as (1) composed of less than nine-tenths of one percent (current law, three-tenths of one percent) tetrahydrocannabinol by weight, and (2) composed of at least five percent (current law, ten percent) cannabidiol by weight.
43. **[S.L. 2015-162 \(H 341\)](#): Various drugs added to Chapter 90 controlled substances lists.** This session law, effective for offenses committed on or after December 1, 2015, adds various drugs to Schedules I, V, and VI in G.S. 90-89, 90-90, and 90-94, respectively. The descriptions of the added drugs are too lengthy and numerous to be listed in this summary, except to note that multiple “NBOMe Compounds” are added to Schedule I.
44. **[S.L. 2015-163 \(H 6\)](#): Autocycle defined and regulated.** This session law, effective October 1, 2015, regulates autocycles under various provisions of Chapter 20 of the General Statutes. Amended G.S. 20-4.01(27) defines an “autocycle” as a three-wheeled motorcycle that has a steering wheel, pedals, seat safety belts for each occupant, antilock brakes, air bag protection, completely enclosed seating that does not require the operator to straddle or sit astride, and is otherwise manufactured to comply with federal safety requirements for motorcycles.
45. **[S.L. 2015-165 \(H 350\)](#): DMV to restore driver’s license of person adjudicated to be restored to competency.** New G.S. 20-17.1A, effective October 1, 2015, provides that if otherwise eligible for a driver’s license under G.S. 20-7 and other statutes, the Division of Motor Vehicles must restore the driver’s license of a person adjudicated to be restored to competency under G.S. 35A-1130 when it receives notice from the clerk of the court in which the adjudication was made.
46. **[S.L. 2015-173 \(H 59\)](#): Amendments to statutes admitting reports of forensic and chemical analysis and remote testimony; no reporting provided for ex parte or emergency hearings before judge under General Statutes Chapters 50B and 50C.** Effective for notices of intent to introduce a statement or report provided by the State on or after July 31, 2015, this session law amends G.S. 8-58.20(f) and (g) (forensic analysis report, affidavit, and statement admissible), G.S. 15A-1225.3(b) (remote testimony by forensic analyst permitted), G.S. 20-139.1(c1) (report of chemical analysis of blood or urine admissible), G.S. 20-139.1(c3) (establishing chain of custody of tested or analyzed blood or urine without calling unnecessary witnesses), G.S. 20-139.1(c5) (remote testimony permitted by analyst about results of chemical analysis of blood or urine), G.S. 90-95(g) (report of drug analysis admissible), and G.S. 90-95(g1) (establishing chain of custody of analyzed drug evidence without calling unnecessary witnesses), to provide if the defendant’s attorney or a defendant, if unrepresented, fails to file a written objection as provided in these statutes, then “the objection shall be deemed waived and” the specified report, affidavit, statement, or remote testimony must be admitted into evidence (quoted language is added to each statute). Amended G.S. 7A-198 (reporting of civil trials) provides that reporting will not be provided in ex parte or

emergency hearings before a judge under General Statutes Chapter 50B (domestic violence protective orders) and Chapter 50C (civil no-contact orders), effective for hearings conducted on or after July 31, 2015.

- 47. S.L. 2015-176 (S 192): Electronic or fax transmission of certain orders; other changes.** Effective August 5, 2015, amended G.S. 50B-3 (domestic violence protective orders), G.S. 50C-9 (civil no-contact orders), and new G.S. 122C-210.3 (involving involuntary commitment orders) provide that law enforcement agencies must accept receipt of copies of an order issued by the court clerk by electronic or fax transmission for service on a defendant. Effective August 5, 2015, amended G.S. 122C-251(d) states “[t]o the extent feasible” (quoted words added) a city or county must provide a driver or attendant who is the same sex as the respondent to transport the respondent for an involuntary commitment matter. Within 60 days of the session law becoming effective (August 5, 2015), the Administrative Office of the Courts must solicit input from court clerks concerning the use of the term “costs” rather than “court costs” on the motor vehicle citation form, and must make changes as appropriate based on their input, but this provision does not require the replacement of citation forms until the printing of new forms is otherwise necessary.
- 48. S.L. 2015-180 (H 446): Bail bondsmen amendments.** Among the changes made in this session law: (1) effective for applications for bondsman licenses filed on or after August 5, 2015, amended G.S. 58-71-50(b) raises the minimum age from 18 to 21 years old to apply as a bail bondsman or runner; and (2) effective August 5, 2015, amended G.S. 58-71-200 requires the Administrative Office of the Courts (AOC) to allow professional bondsmen, surety bondsmen, and runners with access to the AOC’s real-time civil information systems (current law is limited to access to its criminal information systems).
- 49. S.L. 2015-181 (H 383): Reorganize, rename, and renumber various rape and sexual offenses.** This session law reorganizes, renames, and renumbers various rape and sexual offenses, and makes conforming changes throughout the General Statutes, effective for offenses committed on or after December 1, 2015. It also contains a savings clause to permit prosecutions committed under prior laws. Only some of the many changes are included in this summary.
- The provisions of current G.S. 14-27.2 (first-degree rape) are split into new G.S. 14-27.21 (first-degree forcible rape) and G.S. 14-27.24 (first-degree statutory rape). Current G.S. 14-27.3 (second-degree rape) is recodified as G.S. 14-27.22 and renamed second-degree forcible rape.
- Current G.S. 14-27.2A (rape of a child; adult offender) is recodified as G.S. 14-27.23 and renamed statutory rape of a child by an adult. Current G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years old) is recodified as G.S. 14-27.25 and renamed statutory rape of person who is 15 years of age or younger. The changes to the elements of this offense that were made earlier in the 2015 session in S.L. 2015-62 are reflected in the new statute, and the sexual offense elements in prior G.S. 14-27.7A are recodified in new G.S. 14-27.30, which is renamed statutory sexual offense of person who is 15 years of age or younger.
- Similar changes are made with the forcible and statutory sexual offense statutes as were made with the forcible and statutory rape statutes, described above.
- The two distinct offenses in current G.S. 14-27.7 (intercourse and sexual offenses with certain victims) are separated into two new statutes and renamed: G.S. 14-27.31 (sexual activity by a substitute parent or custodian) and G.S. 14-27.32 (sexual activity with a student).
- 50. S.L. 2015-182 (H 397): Disposition of seized assets when person convicted of exploitation of older adult or disabled.** Current G.S. 14-112.2 and 14-112.3 allow a district attorney to apply to a court

before trial to freeze or seize the assets of a defendant who may divesting himself or herself of assets that could be seized if the defendant is convicted of G.S. 14-14-112.2 (exploitation of an older adult or disabled adult). This session law, effective for offenses committed on or after October 1, 2015, specifies in detail (1) the contents and procedure involved with a court order to freeze or seize assets; and (2) how the seized assets must be handled to satisfy an order of restitution. Amended G.S. 7A-308 provides that the court fees set out in subdivision (a)(11) (concerning recording or docketing document) do not apply when the service is performed or documents are filed under G.S. 14-112.3.

51. **S.L. 2015-183 (H 134): Minor who solicits as a prostitute is immune from prosecution of solicitation of prostitution.** Amended G.S. 14-205.1, effective for violations occurring on or after August 5, 2015, provides that a minor (person under 18 years old) who solicits as a prostitute is immune from prosecution of solicitation of prostitution under this statute. Instead, the person must be taken into temporary protective custody as an undisciplined juvenile under Article 19 of Chapter 7B of the General Statutes. A law enforcement officer who takes the minor into custody must immediately report an allegation of a violation of G.S. 14-43.11 (human trafficking) and G.S. 14-43.13 (sexual servitude) to the county social services director in the county where the minor resides or is found, who must initiate an investigation into child abuse or child neglect within 24 hours.
52. **S.L. 2015-185 (H 229): Limited privilege may include driving to and from place of religious worship.** Amended G.S. 20-179.3, effective for limited driving privileges issued on or after October 1, 2015, allows driving to and from a place of religious worship.
53. **S.L. 2015-186 (H 529): Punishments and revocations changed for driving while license revoked and other Chapter 20 changes.** [Note: For a more complete discussion of this session law in a blog post from which this summary is excerpted, see Shea Denning, *General Assembly Approves Relief from the Endless Loop of License Revocation*, North Carolina Criminal Law Blog (UNC School of Government, August 3, 2015), <http://nccriminallaw.sog.unc.edu/general-assembly-approves-relief-from-the-endless-loop-of-license-revocation/>.] This session law is effective for convictions occurring on or after December 1, 2015. There also is a savings clause for prosecutions of offenses occurring before that date.

Driving while license revoked convictions and revocations. Two types of driving while license revoked (hereafter, DWLR) currently codified in G.S. 20-28(a) are assigned to their own subsections. DWLR for impaired driving, a Class 1 misdemeanor, is codified in amended G.S. 20-28(a1). DWLR generally, a Class 3 misdemeanor, remains in G.S. 20-28(a). The punishment for driving without reclaiming a driver's license, punished as a Class 3 misdemeanor, is recodified in amended G.S. 20-28(a2). Driving after notification or failure to appear, a Class 1 misdemeanor, is recodified in new G.S. 20-28(a3).

A person convicted of DWLR under G.S. 20-28(a) will no longer be subject to a mandatory additional period of license revocation. A person convicted of violating G.S. 20-28(a1) or (a3) still will be subject to the same automatic revocation periods. A person punished for driving without a reclaimed license under G.S. 20-28(a2) is not subject to an automatic additional revocation period that exists under current law.

A person's license also is subject to automatic revocation under current G.S. 20-28.1 if the person is convicted of a motor vehicle moving offense that was committed while the person's license was revoked. This session law amends G.S. 20-28.1(a) to provide that a violation of G.S. 20-7(a) (no operator's license), 20-24.1 (failure to appear or pay fine, penalty, or costs for motor vehicle offense), or G.S. 20-28(a) or (a2) shall not be considered a motor vehicle moving offense unless the

offense occurred in a commercial motor vehicle or the person held a commercial driver's license at the time of the offense.

Ignition interlock amendment. Amended G.S. 20-17.8(f) provides that a person subject to an ignition interlock restriction who violates the restriction commits the offense of DWLR for impaired driving under G.S. 20-28(a1) and is subject to the punishment and license revocation as provided in that subsection.

DWI sentencing change. Amended G.S. 20-179(c)(2) changes the description of the DWI grossly aggravating factor as driving while one's driver's license was revoked under G.S. 20-28(a1) (current law states G.S. 20-28) and the revocation was an impaired driving revocation under G.S. 20-28.2(a). For a discussion whether this change is technical or substantive, see the blog post cited previously in this summary.

54. **[S.L. 2015-188 \(S 345\)](#): Limit time motor vehicle can be impounded after collision.** New G.S. 20-166.3, effective for motor vehicles impounded on or after August 1, 2015, provides that a motor vehicle that is towed and stored at a law enforcement agency's direction after a collision may be held for evidence for not more than 20 days without a court order. Without such an order, the vehicle must be released to the vehicle owner, insurer, or lien holder on payment of the towing and storage fees. This new statute does not apply to a motor vehicle seized as a result of a violation of law or abandoned by the owner.
55. **[S.L. 2015-190 \(S 182\)](#): Automatic license plate reader systems regulated.** New Article 3D of Chapter 20 of the General Statutes, effective December 1, 2015, requires state and local law enforcement agencies using an automatic license plate reader system to adopt a written policy governing its use before the system is operational, and requires the policy to address nine issues set out in new G.S. 20-183.23. Captured plate data obtained by the system, operated by or on behalf of a law enforcement agency for law enforcement purposes, must not be preserved for more than 90 days after the date the data is captured, unless there is a preservation request complying with new G.S. 20-183.24(c) or a state or federal search warrant is issued. Captured plate data is confidential and not a public record. Data must not be disclosed except to a federal, state, or local law enforcement agency for a legitimate law enforcement or public safety purpose pursuant to a written request from a requesting agency.
56. **[S.L. 2015-191 \(S 183\)](#): Eliminate confinement in response to violation for misdemeanants sentenced under Structured Sentencing Act.** This session law is effective for a defendant placed on probation on or after December 1, 2015. Amended G.S. 15A-1344(d2), exempts a misdemeanant placed on probation under the Structured Sentencing Act (SSA) from the provision allowing a court, in response to a probation violation other than the commission of new criminal offense or absconding, to impose a period of confinement in response to violation (CRV) of up to 90 consecutive days. For those misdemeanants, the court may, under the amended law, impose a two- or three-day term of confinement under G.S. 15A-1343(a1)(3) in response to a technical violation (a violation other than commission of a crime or absconding) of probation. The court may not revoke probation for an affected misdemeanant until he or she has received two periods of short-term confinement, imposed either by a judge or by a probation officer through delegated authority.
- For an extensive discussion of this session law, see Jamie Markham, *No More CRV for Structured Sentencing Misdemeanants*, North Carolina Criminal Law Blog (UNC School of Government, August 13, 2015), <http://nccriminallaw.sog.unc.edu/no-more-crv-for-structured-sentencing-misdemeanants/>.

57. [S.L. 2015-195 \(H 562\)](#): **Various firearm law amendments.** This lengthy session law, which has varying effective dates, makes multiple changes to firearm laws. It also contains a savings clause for prosecutions of offenses committed before the effective dates. Not all of its provisions are summarized here.

Carrying concealed weapon, weapon on educational property, or weapon on State Capitol. All of the following changes are effective for offenses committed on or after July 1, 2015.

The session law adds the following people to the exemptions from the offense of carrying a concealed weapon under G.S. 14-269: (1) a district attorney may carry a concealed weapon while in the courtroom; (2) a person employed by the Department of Public Safety who has been designated in writing by the secretary of the department, possesses written proof of the designation, has a concealed weapon handgun permit or a permit considered valid under G.S. 14-415.24 (reciprocity), and there is no drug or alcohol consumption or drug or alcohol remaining in the person's body; and (3) an administrative law judge who has a concealed handgun permit or a permit considered valid under G.S. 14-415.24 (reciprocity), and there is no drug or alcohol consumption or drug or alcohol remaining in the person's body.

The session law exempts from the offense in G.S. 14-269.4 (weapons on certain State property and in courthouses) a person who possesses in the State Capitol Building or on its grounds an ordinary pocket knife in a closed position.

Amended G.S. 14-269.2(k) (exemption for the offense of weapons on educational property when person has concealed handgun permit or exempt from obtaining a permit) adds to the exemption (1) a person who has a handgun concealed on the person and the person remains in the locked vehicle and only unlocks the vehicle to allow entrance or exit of another person, or (2) the person is within a locked vehicle and removes the handgun from concealment only for the time reasonably necessary to move the handgun (i) from concealment on the person to a closed compartment or container within the vehicle, or (ii) from within a closed compartment or container within the vehicle to concealment on the person. New G.S. 14-269.2(l) adds an affirmative defense to offenses in subsections (b) and (f) that the person was authorized to have a concealed weapon in a locked vehicle under subsection (k) (see above) and removed the handgun from the vehicle only in response to a situation in which deadly weapon is justified.

Firearms at State Fair regulated. New G.S. 106-503.2, effective August 5, 2015, provides that the Commissioner of Agriculture is authorized to prohibit the carrying of firearms on the State Fairgrounds during the State Fair, with exemptions for a person (1) with a concealed handgun permit or exempt from obtaining a permit and keeping a weapon in the person's locked vehicle as specified in the statute; and (2) exempted officers under G.S. 14-269(1), (2), (3), (4), or (5).

Concealed handgun permit changes. Amended G.S. 14-415.12(b) (mandatory ground to deny concealed handgun permit), applicable to permit applications submitted on or after July 1, 2015, revises the offenses listed in subdivision (b)(8) and adds the following grounds: (1) adjudicated guilty of or received PJC or suspended sentence for misdemeanor crimes of violence under G.S. 14-33(c)(1) (assault inflicting serious injury or with deadly weapon), 14-33(c)(2) (assault on female), 14-33(c)(3) (assault on child), 14-33(d) (assault on person with personal relationship), 14-277.3A (stalking), 14-318.2 (child abuse), 14-134.3 (domestic criminal trespass), 50B-4.1 (violation of domestic violence protection order), or former 14-277.3 (stalking); (2) prohibited from possessing firearm under federal law for conviction of misdemeanor crime of domestic violence; and (3) adjudicated guilty of or received PJC or suspended sentence for assault on officer and others.

Amended G.S. 14-415.13(a), effective for applications submitted on or after October 1, 2015, requires that the sheriff must provide the application form for a concealed handgun permit electronically, and the sheriff must not request employment information, character affidavits, additional background checks, photographs, or other information unless specifically permitted by

Article 54B of Chapter 14, which contains the concealed handgun permit provisions.

Amended G.S. 14-415.12(a), effective August 5, 2105, permits a person to apply for a concealed handgun permit who has been lawfully admitted for permanent residence under federal law.

Amended G.S. 14-415.15(a), effective for applications submitted on or after October 1, 2015, requires a sheriff to make a request for any records concerning the mental health or capacity of an applicant for a concealed handgun permit with 10 days of the receipt of items listed in G.S. 14-415.13 (application for permit).

Amended G.S. 14-415.23 (statewide uniformity for state and local government regulations of legally carrying concealed handgun), effective August 5, 2015, provides that a person adversely affected by any ordinance or regulation promulgated or caused to be enforced by a local government unit in violation of this statute may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. A court must award the prevailing party in such an action reasonable attorneys' fees and court costs as authorized by law.

Amended G.S. 14-415.27 (expanded concealed handgun permit scope for certain public officials), effective for offenses committed on or after July 1, 2015, adds an administrative law judge and a person employed by the Department of Public Safety who has been designated in writing by the secretary of the department and possesses written proof of the designation.

Amended G.S. 14-415.21, effective for offenses committed on or after December 1, 2015, reduces the punishment for a person who has a concealed handgun permit and carries it in violation of G.S. 14-415.11(c)(8) (unauthorized to carry handgun on private premises when notice that concealed handgun is prohibited by sign or statement by person in charge) from a Class 1 misdemeanor to an infraction with a maximum \$500 fine.

Moral character modification for applicant for pistol permit; other changes. Amended G.S. 14-404 (pistol permit application), applicable for permits issued on or after December 1, 2015: (1) adds a provision that for determining an applicant's good moral character to receive a pistol permit, the sheriff shall only consider an applicant's conduct and criminal history for the five-year period immediately preceding the date of the application; and (2) requires that an application must be on a form created by the State Bureau of Investigation in consultation with the N.C. Sheriff's Association, and specifies the information that the applicant is required to submit.

Reporting of certain disqualifiers to National Instant Criminal Background Check System (NICS). New G.S. 14-409.43 (reporting to NICS), effective January 1, 2016, essentially replaces provisions of repealed G.S. 122C-54(d1) and G.S. 14-404(c1), with some additional changes. G.S. 122C-54.1 (restoration process to remove mental commitment bar) is recodified as G.S. 14-409.42. The Administrative Office of the Courts must use the sum of up to \$20,000 available to it for the 2014-2015 fiscal year from the Court Information Technology Fund to comply with the changes in G.S. 14-409.43 applicable to the AOC and provide all historical records specified in the session law to the NCIS by May 31, 2019.

New fingerprint and related duties for law enforcement agencies. Amended G.S. 15A-502, effective October 1, 2015, imposes new fingerprint and related duties on law enforcement agencies.

New G.S. 15A-502(a2) requires an arresting law enforcement agency to fingerprint a person charged with the following misdemeanors and report the offenses to the National Instant Criminal Background Check System (NICS) and forward the fingerprints to the SBI: G.S. 14-134.3 (domestic criminal trespass), G.S. 15A-1382.1 (offenses involving domestic violence); G.S. 50B-4.1 (violation of domestic violence protection order); G.S. 20-138.1 (impaired driving); G.S. 20-138.2 (commercial impaired driving); G.S. 20-138.2A (operating commercial vehicle after consuming alcohol); G.S. 20-138.2B (operating various specialized vehicles after consuming alcohol); and G.S. 90-95(a)(3) (possessing controlled substance).

New G.S. 15A-502(a3) requires an arresting law enforcement agency to cause a person charged

with a crime to provide to the magistrate as much as possible of eight categories of information about the arrestee. Among them are: (1) name including first, last, middle, maiden, and nickname or alias; (2) social security number, and (3) relationship to the alleged victim and whether it is a “personal relationship” as defined by G.S. 50B-1(b).

New G.S. 15A-502(a4) requires an arresting law enforcement agency to cause a person charged with a misdemeanor assault, stalking, or communicating a threat and held under G.S. 15A-534.1 to be fingerprinted so the offense can be reported to NICS and the fingerprints forwarded to the SBI.

New G.S. 15A-502(a5) requires a magistrate to enter into the court information system all information about the arrestee provided by the arresting law enforcement agency.

Statewide uniformity of local regulation of firearms. Amended G.S. 14-409.40(b) adds taxation, manufacture, and transportation to the statute’s prohibition of county or municipal ordinances regulating firearms, ammunition, dealers in firearms, etc. New G.S. 14-409.40(h) provides that a person adversely affected by any ordinance in violation of the statute may bring an action for declaratory and injunctive relief and for actual damages arising from the violation. A court must award the prevailing party in the action reasonable attorneys’ fees and court costs as authorized by law. All of these provisions are effective for ordinance violations occurring on or after December 1, 2015.

Chief law enforcement officer’s certification when required by federal law concerning firearm. New G.S. 14-409.41, effective July 1, 2015, provides that when a chief law enforcement officer’s certification is required by federal law or regulation to transfer or make a firearm, the officer must, with 15 days of receipt of a request for certification, provide the certification if the applicant is not prohibited by state or federal law from receiving or possessing the firearm and is not subject to a proceeding that could result in a prohibition. An applicant whose request for certification is denied may appeal the decision to the district court of the district in which the request was made.

- 58. [S.L. 2015-198 \(H 774\): Death sentence execution procedures changed.](#)** This session law is effective on August 5, 2015. Amended G.S. 15-190(a) allows a medical professional other than a physician (physician assistant, nurse practitioner, registered nurse, emergency medical technician, etc.) to monitor the injection of the required lethal substances and certify the fact of the execution. If a physician is not present at the execution, then a physician must be present on the premises and available to examine the body after the execution and pronounce the prisoner dead. Amended G.S. 150B-1 exempts execution procedures from contested case and rulemaking provisions of the Administrative Procedure Act. Amended G.S. 15-187 deletes the reference to a specific drug (ultrashort acting barbiturate) to be used during an execution. Amended G.S. 132-1.2 removes from the public records law the revelation of the name, address, etc., of any person or entity that manufactures, compounds, dispenses, etc., drugs or supplies obtained for an execution.
- 59. [S.L. 2015-201 \(S 374\): No joint enforcement agreement with National Marine Fisheries Service; study of future joint agreement authorized.](#)** Amended G.S. 113-224, effective August 5, 2015, deletes the authority of the Fisheries Director to enter into an agreement with the National Marine Fisheries Service to allow Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the Service. The Division of Marine Fisheries must conduct a 12-month study of the impacts, costs, and benefits of a joint enforcement agreement and whether authorization to enter into an agreement should be reenacted. The Division must submit its report to the Environmental Review Commission no later than October 15, 2016.
- 60. [S.L. 2015-202 \(S 233\): Automatic expunction of records when charge against person is dismissed based on identity theft or mistaken identity.](#)** Amended G.S. 15A-147, effective for charges brought

on or after December 1, 2015, provides that if a person is charged with a crime or infraction as a result of another person using the identifying information of the named person or mistaken identity, and the charge is dismissed, the prosecutor or other judicial officer who ordered the dismissal must provide notice to the court of the dismissal, and the court must order the expunction of all official records containing any entries concerning the person's apprehension, charge, or trial.

- 61. [S.L. 2015-210](#) (H 284): No fine for civil contempt; jury excuse for attending out-of-state postsecondary school.** Amended G.S. 5A-21 (civil contempt), effective for civil contempt orders entered on or after October 1, 2015, provides that a person found in civil contempt is not subject to the imposition of a fine. This amendment effectively overrules the ruling in *Tyll v. Berry*, ___ N.C. App. ___, 758 S.E.2d 411 (2014), that a trial court has discretion to impose a fine for civil contempt. Amended G.S. 9-6 and 9-6.1, effective for excusal requests from jury service made on or after August 11, 2015, provides that a prospective juror who is summoned for jury service for a court session when the juror is taking classes or exams as a full-time student at an out-of-state postsecondary education institution, must be excused from jury service on his or her request. The Administrative Office of the Courts (AOC), in consultation with the N.C. Conference of Clerks of Superior Court, must study excusals from jury service, including all of the current exemptions and examine whether an excuse should be granted for out-of-state work assignments. The AOC must report its findings and any recommendations to the Joint Legislative Oversight Committee on Justice and Public Safety and the General Assembly at the beginning of the 2016 legislative session.
- 62. [S.L. 2015-211](#) (H 814): Medical examiner appointments and training program.** Amended G.S. 130A-382, effective January 1, 2016: (1) requires the Chief Medical Examiner (CME) to appoint two or more county medical examiners for each county (current law, one or more); (2) requires county medical examiners to complete continuing education training as directed by the Office of the Chief Medical Examiner, with newly-appointed examiners completing mandatory orientation training within 90 days of their appointment, and the continuing education must include training concerning sudden unexpected death in epilepsy; and (3) the CME may revoke a county medical examiner's appointment for failure to adequately perform the duties of the office after providing the examiner with written notice of the basis for the revocation and an opportunity to respond.
- 63. [S.L. 2015-212](#) (H 566): Procedures established for show-up identifications, including application of procedures to law enforcement officers as eyewitnesses.** Amended G.S. 15A-284.52, effective for eyewitness identifications and show-ups conducted on or December 1, 2015, defines a "show-up" as a procedure in which an eyewitness, including a law enforcement officer, is presented with a single live suspect to determine whether the eyewitness is able to identify the perpetrator of a crime. It requires all officers who conduct a show-up to meet all of the following requirements:
- (1) a show-up may only be conducted when a suspect matching the perpetrator's description is located in close proximity in time and place to the crime, or there is a reasonable belief that the perpetrator has changed his or her appearance in a close time to the crime, and only if there are circumstances that require the immediate display of a suspect to an eyewitness;
 - (2) a show-up may only be performed using a live suspect and may not be conducted with a photograph; and
 - (3) investigators must photograph a suspect at the time and place of the show-up to preserve a record of the suspect's appearance when the show-up procedure was conducted.
- The session law also requires the N.C. Criminal Justice Education and Training Standards Commission to develop a policy concerning standard procedures to conduct show-ups, which will apply to all law enforcement agencies beginning August 1, 2016, and must address all of the

following, in addition to the new statutory provisions: (1) standard instructions for an eyewitness; (2) confidence statements by the eyewitness, including information concerning the eyewitness's vision, the circumstances of the events witnessed, and communications with other eyewitnesses, if any; (3) training of officers on how to conduct show-ups; and (4) any other matters the commission considers appropriate.

- 64. [S.L. 2015-215](#) (H 371): National Guard member's exemption from concealed weapon law; civil liability for terrorist act.** New G.S. 14-269(b)(3a), effective August 18, 2015, exempts from the law prohibiting carrying a concealed weapon a member of the N.C. National Guard who has been designated in writing by the Adjutant General and has a concealed handgun permit and is discharging official duties, and the member does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or unlawful controlled substance remains in the member's body. Current G.S. 14-269(b)(3) exempts officers and soldiers of the National Guard when called into actual service.

New G.S. 14-10.1(e), effective for acts committed on or after October 1, 2015, provides that any person whose property or person is injured by a violation of G.S. 14-10.1 (terrorism) may sue and recover treble damages, costs, and attorneys' fees under new G.S. 1-539.2D, which also is enacted by this session law.

- 65. [S.L. 2015-218](#) (H 184): Time limitation on confidentiality of public records, exemptions.** New G.S. 132-11, effective August 18, 2015 and applicable to a public record in existence on or created after that date, provides that all restrictions on access to public records expire 100 years after the creation of the record. However, the statute does not apply to various records, including any record that (1) is ordered to be sealed by any state or federal court, except as provided by that court; (2) is prohibited from being disclosed under federal law, rule, or regulation; and (3) is a record of a juvenile, probationer, parolee, post-releasee, or prison inmate, including medical and mental health records.

- 66. [S.L. 2015-225](#) (S 699): Law enforcement officers' personal information protected from disclosure.** G.S. 153A-98 (privacy of county employee personnel records) and G.S. 160A-168 (privacy of city employee personnel records), are identically amended to provide that even if considered part of an employee's personnel file, the following information of a sworn law enforcement officer shall not be disclosed to an employee or any other person, unless disclosed under G.S. 132-1.4 (criminal investigative records released by court order) or G.S. 132-1.10 (limited release of social security numbers and other personal identifying information), or for the personal safety of the officer or any other person residing in the same residence: (1) information that might identify the residence of the officer; (2) emergency contact information, or (3) any identifying information defined in G.S. 14-113.20 (identity theft). Amended G.S. 132-1.7 (sensitive public security information) provides that public records shall not include mobile telephone numbers issued by a local, county, or state government to (1) a sworn law enforcement officer or nonsworn employee of a public law enforcement agency; (2) a fire department employee; and (3) an employee whose duties include responding to an emergency. This session law is effective October 1, 2015.

- 67. [S.L. 2015-228](#) (S 675): Limit frequency of required parole review of inmates convicted of sexually violent offenses committed before October 1, 1994.** This session law amends repealed G.S. 15A-1371(b), which is still applicable to sentences imposed for offenses committed before October 1, 1994 (the Structured Sentencing Act became effective for offenses committed on or after that date), to provide that the Parole Commission (now, the Post-Release Supervision and Parole Commission)

must review cases when the prisoner was convicted of a sexually violent offense as defined in G.S. 14-208.6(5), and in its discretion give consideration of parole every second year instead of every year. This session law is effective for parole reviews conducted on or after October 1, 2015.

- 68. [S.L. 2015-229 \(S 185\)](#): Clarify credit for time served.** Amended G.S. 15-196.1 provides that credit against a sentence for confinement in correctional, mental, or other institutions applies as a result of the charge that culminated in the sentence “or the incident from which the charge arose” (quoted language is added). The proviso in the statute is rewritten so that credit does not include any time that a defendant has spent in custody as a result of a pending charge while serving a sentence imposed for another offense (the current statute bars credit for any time that is credited on the term of a previously imposed sentence to which the defendant is subject). This session law is effective December 1, 2015. For a detailed discussion of this session law, see Jamie Markham, *New Jail Credit Rules Signed into Law*, North Carolina Criminal Law Blog (UNC School of Government, August 27, 2015), <http://nccriminallaw.sog.unc.edu/new-jail-credit-rules-signed-into-law/>.
- 69. [S.L. 2015-231 \(H 268\)](#): Highway obstruction quick clearance requirements amended.** Amended G.S. 20-161(f), which permits the immediate removal from the state highway system of wrecked, abandoned, burned, etc., vehicles interfering with regular traffic flow, requires before doing so the concurrence of the Department of Transportation and an investigating law enforcement officer (the session law adds the concurrence of the officer). This provision in this session law is effective August 25, 2015, and applies to any obstruction to traffic arising on or after 12:01 a.m. of the day following that date.
- 70. [S.L. 2015-232 \(S 446\)](#): Changes to regulation of unmanned aircraft systems (drones).** This session law, effective August 25, 2015, makes changes to the regulation of unmanned aircraft systems, commonly known as drones. Provisions in the 2013 and 2014 appropriation acts are amended to provide that until December 15, 2015, the State Chief Information Officer (CIO) has the authority to approve or disapprove (1) the procurement or operation of an unmanned aircraft system (UAS) by agents or agencies of the State or a political subdivision, and (2) the disclosure of personal information about any person acquired through the operation of an UAS by these agents or agencies. The agents or agencies who receive CIO approval may procure or operate an UAS before implementation of the knowledge test required by G.S. 63-95. In addition to receiving CIO approval, agents or agencies who submit a request on or after the date of implementation of the knowledge test required by G.S. 63-95 are also subject to the provisions of the statute. Amended G.S. 63-95(b) provides that the Division of Aviation (hereafter, Division) must develop a knowledge test for operating an UAS (current law requires a knowledge and skills test). The test must ensure that the UAS operator is knowledgeable about State statutes and regulations concerning UAS operation.
- Amended G.S. 63-96: (1) changes from “license” to “permit” what is required to commercially operate an UAS; (2) reduces the minimum age for a permit from 18 years old to 17 years old; (3) requires the Division to administer a program that complies with all applicable federal regulations; and (4) provides that the Division rules for designating a geographic area for operating an UAS must not be more restrictive than those of the Federal Aviation Administration (FAA). Before implementing the knowledge test required by G.S. 63-96, any person authorized by the FAA to commercially operate an UAS is not in violation of the statute if the person applies for a permit for commercial operation within 60 days of the full implementation of the permitting process and is issued a state commercial permit “in due course.”