

## 2020 Legislation Affecting Criminal Law and Procedure

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Below are summaries of 2020 legislation affecting criminal law and procedure. To obtain the text of the legislation, click on the link provided below or go to the General Assembly's website, [www.ncleg.gov](http://www.ncleg.gov). Be careful to note the effective date of each piece of legislation.

- 1) **S.L. 2020-3 (S 704): COVID-19 measures.** This act addresses various matters relating to COVID-19, including the following criminal law provisions, which are effective May 4, 2020 and expire August 1, 2020 unless otherwise noted.

*Wearing mask for health purpose.* New G.S. 14-12.11(a)(6) creates an exception to G.S. 14-12.7, 14-12.8, 14-12.9, 14-12.10, and 14-12.14, which prohibit wearing a mask on public ways, public property, and other settings unless an exception applies. The new provision allows a person to wear a mask "for the purpose of ensuring the physical health or safety of the wearer or others." New G.S. 14-12.11(c) requires the person to remove the mask during a traffic stop, including a checkpoint or roadblock under G.S. 20.16.3A, or when approached by a law-enforcement officer with reasonable suspicion or probable cause during a criminal investigation.

*Electronic signatures on search warrants and court orders.* Section 4.4 of the act provides that any signature required for the issuance of a search warrant pursuant to Article 11 (Search Warrants) of G.S. Chapter 15A, or for any judicial order issued following a court hearing conducted by remote audio or visual transmission in a civil or criminal case, may be signed by use of an electronic signature.

*Extension of credentials issued by the Division of Motor Vehicles (DMV).* Section 4.7 of the act extends for five months the validity of any "credential" issued by DMV that expires on or after March 1, 2020 and before August 1, 2020. The act contains a list of 27 credentials, including driver's licenses, commercial driver's licenses, and vehicle registrations, and provides that the extension applies notwithstanding renewal, duration, or expiration provisions in various Ch. 20 statutes or any other provision of law. The act requires DMV to notify individuals affected by an extension, including information on new expiration dates and how the extension affects subsequent renewal and expiration dates. The act provides that a person may not be convicted or found responsible for any offense resulting from the failure to renew a credential issued by DMV if the person shows that the offense occurred during the period of the extension; however, if a credential expires after the extension, the expiration is treated as occurring on the date prescribed by law without regard to the extension.

*Security services at state prisons.* New G.S. 74C-3(a)(6)e. includes in the definition of security guards providing services subject to G.S. Chapter 74C, Article 1 (Private Protective Services Board) “security services related to entry and exit, direction and movement of individuals at entry and exit, security working towers, and perimeter security patrols at State prison facilities.” New G.S. 148-5.5 requires that these security guards receive training on State prison policies, including policies on the use of force, before providing security services at a State prison; and it authorizes personnel who receive such training “to detain and use necessary force pursuant to State prison policies to prevent contraband entry or inmate escape.”

*Release of communicable disease information to law enforcement.* Effective May 4, 2020, revised G.S. 130A-143(7a) allows the Department of Health and Human Services (DHHS) and local health departments to release otherwise confidential information subject to G.S. Chapter 130A, Article 6 (Communicable Diseases) “to prevent or lessen a serious or imminent threat to the health or safety of a person or the public, to the extent that disclosure is permitted under 45 Code of Federal Regulations § 164.512(j).”

*Extension of training and certification of law enforcement officers by Forensic Tests for Alcohol Branch of DHHS.* Effective March 10, 2020 and expiring January 1, 2021, Section 4.39 of the act authorizes the Forensic Tests for Alcohol Branch to delay or modify educational or examination requirements for recertification of law enforcement officers and, for any certification issued before March 10, 2020, to extend that certification until December 31, 2020 if education or examination requirements are delayed.

*Modification of sentence of imprisonment in local jail.* Section 4.41 of the act, entitled “Authorize Modification of Criminal Judgments Requiring Intermittent Active Time,” allows the chief district court judge where the judgment was entered to modify any criminal judgment requirement that a defendant serve periods of confinement or imprisonment in a local confinement facility if the chief judge finds all of the following: “(1)The defendant is unable to serve one or more ordered periods of confinement or imprisonment due to the local confinement facility’s restrictions on inmates during the COVID-19 state of emergency. (2) Without modification, the defendant will be in violation of the criminal judgment. (3) The District Attorney consents to modification of the criminal judgment.” The act states that any modification should be as minimal as possible to allow the defendant to comply with the requirements of the criminal judgment.

2) **S.L. 2020-17 (H 1169): Sending unrequested absentee ballot.** Along with other election law changes, section 8 of the act revises G.S. 163-237, effective for offenses committed on or after July 1, 2020, to make it a Class I felony for

- a member or employee of the State Board of Elections or a county board of elections

- knowingly
- to send or deliver
- an absentee ballot
- to any person
- who has not requested an absentee ballot
- pursuant to the requirements of G.S. Chapter 163.

3) **[S.L. 2020-18 \(S 315\): Left-turning farm equipment.](#)** Along with other agricultural law changes, section 2 of the act revises G.S. 20-150, effective for offenses committed on or after December 1, 2020, to make it an infraction, punishable under G.S. 20-176, for a driver of a vehicle to overtake and pass self-propelled farm equipment in the same direction when the farm equipment is (i) making a left turn or (ii) signaling that it intends to make a left turn. (An earlier version of the bill contained several provisions about hemp, but they were not enacted as part of the final bill). See Phil Dixon, [2020 Summer Hemp Update](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (June 16, 2020).

4) **[S.L. 2020-35 \(S 562\): Expunctions.](#)** This act, known as the Second Chance Act, made several changes to North Carolina's expunction laws. This summary reviews the major features of those changes. For additional detail, see John Rubin, [A Second Chance in North Carolina through Expanded Criminal Record Clearance](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 7, 2020).

*Juvenile offenses.* Effective for offenses committed before December 1, 2019, Section 1 of the act amends G.S. 15A-145.8 to allow a person to file a petition for expunction of a conviction of any misdemeanor and Class H or I felony from the person's record if the offense was committed before December 1, 2019 and while the person was 16 or 17 years old. An offense is not eligible for expunction under this section if it is either a violation of the motor vehicle laws under Chapter 20 of the General Statutes, including impaired driving offenses, or an offense requiring registration as a sex offender pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.

*Prosecutor access to and use of information.* Section 2 of the act addresses prosecutor access to expunged information. Under expanded G.S. 15A-151.5(a), prosecutors can access information regarding expunctions if the criminal record was expunged on or after July 1, 2018 under either G.S. 15A-145.7 (expunction of records for first offenders under 20 years of age for certain offenses) or G.S. 15A-145.8 (expunction of records for offenders under the age of 18 for certain misdemeanors and felonies). This right of access is in addition to the right of access for other expunged information already listed in G.S. 15A-151.5(a).

Section 2 revises G.S. 15A-151.5(b) to expand the uses that may be made of the expunged information to include: (1) serving as a basis for indictment for a habitual offense pursuant to G.S. 14-7.1 or G.S. 14-7.26.; (2) when a conviction of a prior offense raises the offense level of a subsequent offense; (3) determining eligibility for relief under G.S. 90-96(a); and (4) when permissible in a criminal case under Rule 404(b) or Rule 609 of the North Carolina Rules of Evidence.

*Dismissals and acquittals.* Section 3 of the act adds G.S. 15A-146(a4), which provides for automatic expunction if all charges in the case are disposed on or after December 1, 2021 and all charges in the case were dismissed without leave, dismissed by the court, or resulted in a finding of not guilty or not responsible. This section does not apply to felony charges that were dismissed pursuant to a plea agreement. The new automatic expunction is not subject to any other preconditions, including waiting periods, limits on the number of expunctions, and disqualification based on prior convictions, whether for a felony or misdemeanor. Previously, a person could not obtain an expunction of a dismissal if he or she had a prior felony conviction.

**Expunction of dismissals and acquittals by petition.** Revised G.S. 15A-146 contains three different provisions for petitioning for expunctions, effective for petitions filed on or after December 1, 2020. A petition may be filed by the affected person or by the District Attorney. As with automatic expunctions, the statute imposes no waiting period, no limit on the number of expunctions, and no disqualification based on prior convictions, whether for a misdemeanor or felony. There is no requirement of notice to the alleged victim. Effective June 25, 2020, a judge may grant a petition for an expunction of a dismissal or acquittal without a hearing.

Subsection (a) of G.S. 15A-146 applies to dismissals in cases involving a single charge. The court must grant an expunction petition when a single charge is dismissed. Subsection (a1) of G.S. 15A-146 applies to cases involving multiple charges. If all charges are dismissed, the court must grant an expunction petition. The subsection states that if any charge resulted in a conviction on the day of dismissal or has not yet reached final disposition, the court may order expunction of any charges that were dismissed. Subsection (a2) of G.S. 15A-146 applies to acquittals in cases involving single or multiple charges. If a person is found not guilty of any charges and any related criminal charges have reached final disposition, the court must grant an expunction petition.

New subsection (a5) provides that an arresting agency may maintain investigative records related to a dismissal or acquittal that has been expunged.

*Convictions of nonviolent offenses.* Section 4 of the act revises G.S. 15A-145.5 to create three categories of expunctions: (1) for one nonviolent misdemeanor conviction after five years; (2) for more than one nonviolent misdemeanor conviction after seven years; and (3) for one nonviolent felony conviction after ten years. Each category has its own eligibility criteria and requirements. One such requirement that applies to all three categories is that the petitioner is of good moral character and has no pending criminal charges. For all three categories, a prior expunction is a bar to relief if the expunction was granted under G.S. 15A-145.5 and the offense was committed after the date of the previous order of expunction. The District Attorney must give notice of the petition to the victim, who has the right to be heard. If the judge denies the petition, he or she must make findings about the reason for the denial.

5) **[S.L. 2020-40 \(H 307\): Modified utility vehicles.](#)** Effective October 1, 2020, this act adds a new sub-division to G.S. 20-4.01(27) to include modified utility vehicles. The act defines a modified utility vehicle as a motor vehicle that

- is manufactured for off-road use;
- has headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, and seat belts;
- has four wheels,
- has an engine displacement greater than 2400 cubic centimeters;
- is at least 142 inches long, at least 58 inches wide, and at least 70 inches tall;
- has a maximum speed of at least 40 miles per hour; and
- does not require an operator or passenger to straddle a seat.

A modified utility vehicle does not include an all-terrain vehicle, golf cart, utility vehicle as defined in G.S. 20-4.01(48c), or a riding lawn mower. The act amends G.S. 20-121.1 to authorize the operation of modified utility vehicles on streets or highways where the speed limit is 55 miles per hour or less and to require that modified utility vehicles be registered and insured in accordance with G.S. 20-50 and G.S. 20-309. For further discussion, see Shea Denning, [2020 Motor Vehicle Legislation of Interest — To Me and the Kids](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 13, 2020).

6) **[S.L. 2020-47 \(H 511\): Judicial discretion for drug trafficking offenses.](#)** Effective for sentences ordered on or after December 1, 2020, the act adds G.S. 90-95(h)(5a) to permit a sentencing judge to depart from the mandatory minimum prison term for a conviction of or conspiracy to commit a violation of G.S. 90-95(h). The act provides that a sentencing judge may depart from the mandatory sentencing if, after a hearing and opportunity for the

district attorney to present evidence, the judge enters into the record specific findings that each of the following 11 conditions are met:

- a. The defendant has accepted responsibility for the defendant's criminal conduct.
- b. The defendant has not previously been convicted of a felony under G.S. 90-95.
- c. The defendant did not use violence or a credible threat of violence, or possess a firearm or other dangerous weapon, in the commission of the offense for which the defendant is being sentenced.
- d. The defendant did not use violence or a credible threat of violence, or possess a firearm or other dangerous weapon, in the commission of any other violation of law.
- e. The defendant has admitted that he or she has a substance abuse disorder involving a controlled substance and has successfully completed a treatment program approved by the court to address the substance abuse disorder.
- f. Imposition of the mandatory minimum prison term would result in substantial injustice.
- g. Imposition of the mandatory minimum prison sentence is not necessary for the protection of the public.
- h. The defendant is being sentenced solely for trafficking, or conspiracy to commit trafficking, as a result of possession of a controlled substance.
- i. There is no substantial evidence that the defendant has ever engaged in the transport for purpose of sale, manufacture, or delivery of a controlled substance or the intent to transport for purpose of sale, manufacture, or deliver a controlled substance.
- j. The defendant, to the best of his or her knowledge, has provided all reasonable assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals.
- k. The defendant is being sentenced for trafficking, or conspiracy to commit trafficking, for possession of an amount of a controlled substance that is not of a quantity greater than the lowest category for which a defendant may be convicted for trafficking of that controlled substance under G.S. 90-95(h).

Effective December 1, 2020 and applicable to sentences ordered on or before November 30, 2020, a person serving an active sentence imposed solely for a violation of G.S. 90-95(h), or conspiracy to commit a violation under G.S. 90-95(i), may file a motion for appropriate relief for a modification of the person's sentence under the authority granted in G.S. 90-95(h)(5a). For further discussion, see Jamie Markham, [The North Carolina First Step Act](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 8, 2020).

- 7) **S.L. 2020-48 (S 719): Felony forfeiture for government retirement systems.** Effective June 26, 2020, the act revises several statutes on forfeiture of creditable service on conviction of certain offenses by government employees.

G.S. 135-18.10A (the retirement system for teachers and state employees), G.S. 128-38.4A (the retirement system for counties, cities, and towns), G.S. 135-75.1A (the Consolidated Judicial Retirement System), and G.S. 120- 4.33A (the Legislative Retirement System) provides that the retirement system board of trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any system member who is convicted of a felony under federal or NC law if (i) the offense is committed while the member is serving in the public office or position and (ii) the conduct resulting in the felony conviction is directly related to the member's office or employment. Section 4.3 of the act repeals subsection (b) in each of these four statutes, which provided that the forfeiture requirement applies only if the court finds as an aggravating factor under G.S. 15A-1340.16(d)(9) that the member's conduct is directly related to the member's office or employment.

The act also clarifies that the felony forfeiture provisions for each of the government retirement systems requiring a loss of creditable service apply regardless of whether that creditable service was earned by virtue of membership in the system, accrued by conversion of sick leave at the point of the member's retirement, accrued by transfer of service from another retirement system, purchased by the member in accordance with the respective Chapter, or accrued by any other means.

- 8) **S.L. 2020-54 (H 463): Inmate access to education.** S.L. 2010-31 has provided that funds appropriated for community colleges courses for prison inmates shall be used only for inmates in State prisons. Effective July 1, 2020, this act repeals the prohibition on using the funds for Associate of Arts, Associate of Science, or Associate of General Education degrees.
- 9) **S.L. 2020-68 (H 885): One fee for failure to appear.** Effective for costs assessed on or after December 1, 2020, revised G.S. 7A-304(a) provides that the fee for a criminal defendant's failure to appear (FTA) in court shall only be collected once in a criminal case. Before this enactment, both the Administrative Office of the Courts and the General Assembly interpreted the law to mean that multiple FTAs in the same case required the assessment of multiple FTA fees. Criminal defendants were thus being assessed a fee for each failure to appear, even if those instances were for a single case.
- 10) **S.L. 2020-73 (S 739): Personal delivery devices.** The act authorizes and regulates the use of personal delivery devices. The act expands G.S. 20-4.01 to include personal delivery device, defined as an electrically powered device intended for transporting cargo that is equipped with automated driving technology that enables device operation with or without the

remote support and supervision of a human and that does not exceed (i) a weight of 500 pounds, excluding cargo, (ii) a length of 40 inches, and (iii) a width of 30 inches.

The act adds G.S. 20-175.8, which provides that a business entity may operate a personal delivery device in a pedestrian area or on a highway, in compliance with all of the following:

- (1) The personal delivery device shall be monitored by an operator who is able to exercise remote control over the navigation and operation of the personal delivery device.
- (2) The personal delivery device may not be operated in a pedestrian area at a speed greater than 10 miles per hour.
- (3) The personal delivery device may not be operated on a highway except as necessary to cross a highway or along a highway if a sidewalk is not provided or accessible. When operating along a highway, the following additional restrictions apply:
  - a. The personal delivery device shall be operated on the shoulder or as close as practicable to the extreme right of the highway in the direction of authorized traffic movement and shall yield the right-of-way to all vehicles.
  - b. The personal delivery device may not be operated on a highway at a speed greater than 20 miles per hour.
  - c. The personal delivery device may not be operated on a highway with a speed limit greater than 35 miles per hour.
- (4) The personal delivery device shall obey all traffic and pedestrian control devices and signs.
- (5) The personal delivery device shall yield the right-of-way to all human pedestrians.
- (6) The personal delivery device shall not unreasonably interfere with any vehicle or pedestrian.
- (7) The personal delivery device shall not transport materials regulated under the Hazardous Materials Transportation Act that require placarding.

Additionally, the act requires a personal delivery device to be equipped with all of the following:

- (1) A marker that clearly states the name and contact information of the owner and a unique identification number.
- (2) A braking system that enables the device to come to a controlled stop.

- (3) When operated at night, lights on the front and rear of the personal delivery device that are visible and recognizable under normal atmospheric conditions from at least 500 feet on all sides of the personal delivery device.

Effective for offenses committed on or after December 1, 2020 and a violation of which is an infraction. For further discussion, see Shea Denning, [PDDs: Coming Soon to a Street Near You](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 6, 2020).

**11) [S.L. 2020-74 \(H 308\)](#): Possession of mobile phone by an inmate.** Effective for offenses committed on or after August 1, 2020, the act amends G.S. 14-258.1 to add subsection (h), which provides that subsections (d) and (g) of the statute do not apply to mobile phones or wireless devices provided to or possessed by an inmate if the device has been approved by the sheriff or other person in charge for use by inmates in a manner consistent with the approved use of the device. Except as provided in new subsection (h), subsections (d) and (g) continue to make it a Class H felony for an inmate to possess a mobile phone or wireless communication device, or for any person to knowingly give or sell a mobile phone or other wireless device to an inmate.

**12) [S.L. 2020-77 \(S 488\)](#): Limited driving privilege.** Effective for applications for limited driving privileges filed on after December 1, 2020, the act enacts G.S. 20-24.1(f), which allows a person to apply to the court for a limited driving privilege if that person's license is revoked under G.S. 20-24.1(a)(2) for failure to pay a fine, penalty, or court cost. If the person's license also is revoked for another reason, the person is not eligible for the privilege. The privilege may be valid for up to one year or until any fine, penalty, or court costs are paid. A person may not apply for a limited driving privilege under this subsection if the person has held a limited driving privilege under this subsection within the three years before the application. For further discussion, see Shea Denning, [2020 Motor Vehicle Legislation of Interest — To Me and the Kids](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 13, 2020).

**13) [S.L. 2020-78 \(S 681\)](#): Office of prosecutorial services.** The act provides that the UNC School of Government, in consultation with other relevant entities, shall study the feasibility and cost of creating an Office of Prosecutorial Services. The goal of the study will be to compare North Carolina's judicial branch structure to that of other states in terms of organizational placement of prosecutorial services within the context of the unified court system and also to determine the necessary resources and costs required to make an Office of Prosecutorial Services viable as an independent agency. The act requires the School of Government to submit the report by April 1, 2021.

**14) [S.L. 2020-80 \(H 1023\): Domestic violence prevention pilot program.](#)** This act adds a new section to the 2020 COVID-19 Recovery Act, which was enacted in May as S.L. 2020-4.

The act allows for funds to be granted to Caitlyn’s Courage, Inc., to conduct domestic violence prevention pilot programs in at least nine judicial districts. The pilot programs must:

- (1) Provide judges in the participating judicial districts the option to use global positioning system (GPS) electronic monitoring devices as a condition of pretrial release for defendants of crimes related to stalking, sexual assault, domestic abuse, and violations of a domestic violence protective order.
- (2) Establish local implementation teams that shall, at a minimum, consider for inclusion (i) district court judges, (ii) superior court judges, (iii) assistant and elected district attorneys, (iv) assistant and appointed public defenders, (v) deputy, assistant, and elected clerks of superior court, (vi) law enforcement officers, (vii) domestic violence victims advocates, (viii) court support staff, and (ix) representatives of the Department of Adult Correction and Juvenile Justice.
- (3) Operate a 24-hour monitoring center that contacts victims if an offender violates a relevant condition of pretrial release or a domestic violence protective order.
- (4) Train all pilot program participants, including victims and offenders, regarding the GPS tracking devices utilized by the pilot programs.

The electronic monitoring devices used by the pilot programs must have each of the following specifications:

- (1) The ability to automatically switch cellular networks, ensuring that the device is not dependent on one particular cellular network provider.
- (2) The ability to detect, record, and report the deliberate shielding from receipt of GPS signals.
- (3) A disposable strap.
- (4) A minimum single charge, 48-hour battery life via an inaccessible battery with the option of a fixed charger, mobile charger, or both.
- (5) The ability to detect and store the time and date of any physical impact to the device at a level high enough to cause malfunction.
- (6) The ability to record the offender’s immediate location at all times.
- (7) The ability to automatically notify the victim if an offender is within a restricted proximity to the victim pursuant to a court order.

The act requires Caitlyn's Courage, Inc., to report on the effectiveness of the pilot programs by April 1, 2021.

**15) [S.L. 2020-83](#) (H 593): Juvenile detention and sex offender registration.** Section 8 of the act amends various statutes in to address the incarceration of a defendant who is under 18 years of age at the time of the commitment. Section 11 of the act addresses people having an out-of-state or federal conviction for an offense that appears to be substantially similar to a NC sexually violent offense or offense against a minor.

*Juvenile detention.* Section 8 of this act amends several statutes to ensure that youth who are ordered to a period of confinement in a local confinement facility are housed in a juvenile setting and not a jail. The change effectively removes all minors who would otherwise remain in jails from the jail setting. It is effective for offenses committed, sentences imposed, and any other orders of imprisonment issued on or after August 1, 2020, section 8(a) of the act also amends G.S. 7A-109.3 to provide that if a district court or superior court judge sentences a person under the age of 18 to imprisonment, the clerk of superior court shall furnish the detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice with the signed order of commitment within 48 hours of the issuance of the sentence.

In the amended statutes, the act provides that people under the age of 18 who are sentenced to imprisonment or ordered to confinement must be imprisoned or confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles, or to a holdover facility as defined in G.S. 7B-1501(11). If the person being committed reaches the age of 18 years while held in custody, the person shall be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the county where the charges arose. For further discussion, see Jacquelyn Greene, [No More Minors in Jails](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 28, 2020).

*Increased attorney appointment fee and new indigent defense service fee.* Subsection 10.1(a) of the act amends G.S. 7A-455.1 to increase the attorney appointment fee from sixty dollars (\$60.00) to seventy-five dollars (\$75.00) in every criminal case in which counsel is appointed at the trial level. Subsection 10.1(b) of the act amends G.S. 7A-304(a) to add subsection 3c, which imposes a two dollar (\$2.00) fee for legal representation to indigent defendants and others entitled to counsel under North Carolina law.

*Sex offender registration requirement review.* Effective for any individual notified of the right to contest registration as a sex offender on or after August 1, 2020, subsection 11.5(a)

enacts a new G.S. 14-208.12B, which addresses individuals who have an out-of-state or federal conviction for an offense that appears to be substantially similar to a reportable North Carolina sexually violent offense or offense against a minor. The law requires that when the sheriff notifies the person that the person may be required to register as a sex offender, the sheriff must also notify the person of the right to petition the superior court for a determination of whether the person's out-of-state or federal conviction is substantially similar to a North Carolina reportable conviction. The person must file the petition within 30 days of the receipt of notice from the sheriff.

Section 11.5(b) of the act adds G.S.7A-451(19) to provide that an indigent person is entitled to of counsel in a proceeding involving a review of the sex offender registration requirement as provided in G.S.14-208.12B.

Subsection 11.5(c) of the act requires the State Bureau of Investigation to provide each District Attorney with a list of the class members subject to the order in *Grabarczyk v. Stein*, No. 5:19-CV-48-BO, 2020 WL 2441418 (May 12, 2020), that reside in that District Attorney's district. A District Attorney must decide to handle each case. If, after review, the District Attorney makes a preliminary determination that the individual's out-of-state or federal conviction is substantially similar to a North Carolina offense that would have required registration at the time of offense, they shall notify the person and the sheriff in the county where the individual resides. This portion of the law was amended by section 5(a) of S.L. 2020-90, removing the part that allowed each District Attorney to ask the Attorney General to handle the proceeding on his or her behalf. For further discussion, see Jamie Markham, [New Legislation on Sex Offender Registration for Out-of-State Offenses](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 29, 2020).

**16) [S.L. 2020-93 \(S 232\): Masks.](#)** Effective July 10, 2020, this act amends section 4.3(b) of S.L. 2020-3 to permanently authorize a person to wear a mask in public and on private premises for the purpose of ensuring the physical health or safety of the wearer or others. Previously, under S.L. 2020-3, this authorization would have expired on August 1, 2020.

Notwithstanding the protective nature of the mask, this act requires a person wearing a mask for health or safety reasons to remove the mask on request by a law enforcement officer (1) during a traffic stop, including a checkpoint or roadblock, or (2) when a law enforcement officer has reasonable suspicion or probable cause during a criminal investigation.

**17) [S.L. 2020-97 \(H 1105\): Extended applicability period for certain DMV credential extensions.](#)** Effective for expirations occurring on or after August 1, 2020, this act revises section 4.7(b) of S.L. 2020-3 to extend the validity of a commercial driver's license,

commercial learner's permit, special identification card, handicapped placard, and inspection mechanic license for a period of five months. The extension applies only if the listed credential expires on or after March 1, 2020 and before the date 30 days after the date the Governor (i) rescinds Executive Order No. 116 or (ii) issues another executive order lifting restrictions on Division of Motor Vehicle (DMV) functions. The act further provides that notwithstanding G.S. 20-37.13(h) and G.S. 20-37.13A(a), the DMV is authorized to waive the requirement that commercial driver's license and commercial learner's permit holders have a medical examination and certification, as required by federal law, consistent with any waiver of medical qualifications standards issued by the Federal Motor Carrier Safety Administration.