



Police Law Bulletin



Durham Police Department

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2007 Legislation Affecting Criminal Law and Procedure



Below are brief summaries of selected legislation affecting criminal law and procedure that were enacted during the 2007 legislative session. For details about the bills summarized below, please review the actual legislation. Copies are available on the General Assembly's website: go to www.ncleg.net; insert the bill number, for example s912 or h2098 in the Find Bills by Number box located on the right-hand side of the screen; click Go; then click on the title of the bill located at the top of the screen.

House Bill 27 (Session Law 2007-263)**Duty to Report Child Pornography**

Adds new G.S. 66-67.4 to require persons who process film or are computer technicians, who discover in the course of their employment duties an image of a minor engaging in sexual activities, to report the name and address of the customer who requested the development of the film or was in possession of the computer to the Cyber Tip Line at the National Center for Missing and Exploited Children, or to an appropriate local law enforcement officer.

Effective: September 1, 2007

House Bill 29 (Session Law 2007-213)**Sex Offender GPS/DOC Requests**

Makes various clarifications and other changes to the laws governing sex offender registration and satellite monitoring including, but not limited to:

Expands G.S. 14-208.44 to make it a Class E felony to interfere with the proper functioning of a satellite-based monitoring device and make it a Class 1 misdemeanor for a person who is

required to enroll in satellite-based monitoring to fail to provide necessary information to the Department of Correction or fail to cooperate with the Department's guidelines and regulations for the program;

Amends G.S. 15A-1343(b2) providing that sex offender defendants placed on unsupervised probation must submit, at reasonable times, to warrantless searches of their person, vehicle and premises for purposes specified by the court;

Effective: December 1, 2007

Amends G.S. 14-208.9 to require registered sex offenders who move from one county to another to notify both the Sheriff of the county they are currently registered in that they are departing, and the Sheriff of the new county into which they are moving;

G.S. 14-208.16 imposes residency restrictions on registered sex offenders. The statute provides that a registrant has established residency when, among other things, the registrant resides with an immediate family member. The definition of an "immediate family member" is amended to include a child or sibling of the registrant who is 18 years of age or older (prior to the amendment there was no age requirement) and to add a grandparent, legal guardian or spouse of the registrant.

Effective: July 11, 2007

**House Bill 42 (Session Law 2007-14)
Amend Domestic Violence Laws/Homicide Reporting**

G.S. 15A-534.1 specifies certain criteria that must be imposed by a judge when releasing a defendant on bond who is charged with a domestic violence offense. This bill amends the statute so that it now includes domestic violence offenses where the defendant was stalking the victim.

Effective: December 1, 2007

Requires the Attorney General's Office to develop a reporting system and a database that reflects the number of homicides in the State where the offender and the victim had a personal relationship. All State and local law enforcement agencies are required to report information to the Attorney General's Office upon determining that a homicide meets the reporting system's requirements.

Effective: applies to offenses occurring on or after July 1, 2007

**House Bill 47 (Session Law 2007-190)
Violate Order/Possess Deadly Weapon Felony**

Adds new G.S. 50B-4.1(g) making it a Class F felony to possess a deadly weapon while knowingly violating a domestic violence protective order by failing to stay away from a place or person as directed by the order.

Effective: December 1, 2007

**House Bill 61 (Session Law 2007-6)
Child Restraint Systems/Federal Compliance**

Deletes the exception in the Child Restraint Law that allows children to be out of the child seat when “the child’s personal needs are being attended to.”

Effective: June 1, 2007

**House Bill 105 (Session Law 2007-122)
Modify Laws for Desecrating Graves**

Amends G.S. 14-148 to increase the penalty from a Class 1 misdemeanor to a Class I felony for disturbing or tampering with graves, if the damage is \$1,000 or more.

Effective: December 1, 2007

**House Bill 183 (Session Law 2007-261)
Ban Cell Phone Use by School Bus Drivers**

Adds new G.S. 20-137.4 to make it a Class 2 misdemeanor for the driver of a public or private school bus, school activity bus, or any vehicle for hire being used to transport students, to use a cell phone or additional technology while operating the bus on a public street or highway or public vehicular area. Additional technology is defined as “any technology that provides access to digital media such as a camera, electronic mail, music, the internet or games.”

Effective: December 1, 2007

**House Bill 353 (Session Law 2007- 115)
Public Health Information Access/HIPAA Clarification**

Amends G.S. 20-139.1 (procedures governing chemical analyses) to provide that when an officer specifies a blood or urine test, either initially or following a refusal, a person requested to withdraw blood or collect urine may refuse to do so only if it reasonably appears that the procedure cannot be performed without endangering the safety of the person collecting the sample or the safety of the person from whom the sample is being collected. If the officer requesting the blood or urine requests a written justification for the refusal, the medical provider who determined the sample could not be collected safely shall provide written justification at the time of the refusal.

**House Bill 367 (Session Law 2007-301)
Increase Criminal Penalty/Theft of Metals**

Amends G.S. 66-11 to require that the seller of regulated metals property provide the physical address where the regulated metals were obtained, the motor vehicle license plate number of the vehicle used to deliver the metals, and a photocopied or electronic scan of the driver's license of the person delivering the metals. Also provides that a secondary metals recycler make receipts of the purchase of regulated metals available for pick-up each regular work day if requested to do so by the local Sheriff or Chief of Police. Requires a secondary metals recycler who has been convicted of a felony under G.S. 14-71, 14-71.1 or 14-72 to retain any regulated metals product (except iron and steel) for at least seven days from the date of purchase before selling, dismantling, defacing, altering or disposing of. Increases the punishment for second or subsequent violations of the statute from a Class 1 misdemeanor to a Class I felony.

Amends G.S. 14-154 to add wireless and cable telecommunications equipment to the statute's provisions and increases the punishment from a Class 1 misdemeanor to a Class I felony for injuring these and other types of telephone and electrical power fixtures.

Creates new G.S. 66-11.2 to provide for the forfeiture of vehicles used to transport illegally obtained regulated metals.

Effective: December 1, 2007

**House Bill 454 (Session Law 2007-534)
Identity Theft**

Authorizes law enforcement officers to take a photograph of persons who are issued a citation for a motor vehicle moving violation that occurred on a street or highway if the person does not produce a valid driver's license upon the request of the law enforcement officer and the law enforcement office has reasonable suspicion concerning the true identity of the person. Motor vehicle moving violation is defined in this new law to specifically exclude offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed and does not include equipment violations specified in part 9 of Article 3 of Chapter 20 of the General Statutes. Any photograph taken pursuant to this new statute shall: 1) only be taken of the operator of the motor vehicle and only from the neck up; 2) be taken at either the location where the citation is issued or at the jail if an arrest is made; 3) be retained by the law enforcement officer or agency until the final disposition of the case; 4) not be used for any purpose other than to confirm the identity of the alleged offender; and 5) be destroyed by the law enforcement officer or agency upon a final disposition of the charge.

Effective: December 1, 2007

**House Bill 550 (Session Law 2007-192)
Modify School Employee Confidentiality Law**

Amends G.S. 115C-321 (confidential information in school employee personnel files; access to information) to provide that information contained in a personnel file that is relevant to possible criminal misconduct may be made available to law enforcement and the district attorney to assist in the investigation of specified offenses.

Effective: July 8, 2007

**House Bill 554 (Session Law 2007-188)
Assault Disabled Person/Institutional Setting**

Amends G.S. 14-32.2(b)(4) to increase the penalty from a Class A1 misdemeanor to a Class H felony for assaulting a patient in a health care facility or the resident of a residential care facility when the conduct evinces a pattern of behavior, is willful or culpably negligent, or causes bodily injury to the patient or resident.

Effective: December 1, 2007

**House Bill 563 (Session Law 2007-360)
Traffic and Personal Safety Changes**

Amends G.S. 20-140.4(a)(2) to require motorcycle and moped operators and passengers, when on a highway or public vehicular area, to wear a safety helmet that complies with the Federal Motor Vehicle Safety Standard 218.

Effective: January 1, 2008

Amends G.S. 20-157(f) so that the definition of a “public service vehicle” no longer requires that the public service vehicle be one that has been called to the scene by a motorist or law enforcement officer. Amends G.S. 20-158(b)(6) to provide that when a traffic signal is not working, the intersection is to be treated as if there was a stop sign for all motorists, unless traffic at the intersection is being directed by a law enforcement officer. Amends G.S. 20-161(e) to change the time after which a vehicle parked on the right-of-way can be removed from a public highway or rest area from 48 hours to 24 hours.

Effective: August 17, 2007

**House Bill 573 (Session Law 2007-412)
Authorize Judge/Concealed Weapon in Court**

Amends 14-269.4 to allow district and superior court judges who have a concealed handgun permit to carry a concealed handgun while in a courthouse discharging their official duties.

Effective: August 21, 2007

House Bill 679 (Session Law 2007-503)

Safety/Emission Inspection Changes

Requires motor vehicle safety inspection stations and motor vehicle emissions inspection stations to have equipment that will transfer information on vehicle inspections electronically to the Division of Motor Vehicles. It also requires a new vehicle acquired from out of state to be inspected within 10 days of registration in North Carolina. This bill also provides that motor vehicle inspections will expire in the same month as the expiration of the vehicle registration. In order for the vehicle registration to be renewed, the motor vehicle inspection must first be done. This new procedure appears to eliminate the need for motor vehicle inspection stickers on vehicle windshields. By coordinating the DMV database for inspections and vehicle registrations, a person could not renew their vehicle registration plate until their motor vehicle inspection has been completed. This bill requires registration plates that are not renewed to be surrendered to the Division of Motor Vehicles within 120 days of expiration. It also makes numerous other changes in how motor vehicle inspection stations manage this program and transmit data back and forth with the Division of Motor Vehicles.

Effective: October 1, 2008

House Bill 729 (Session Law 2007-443) Penalties for Insurance Rate Evasion Fund

Adds new G.S. 58-2-164 making it a Class 3 misdemeanor to make fraudulent or misleading statements (written or oral) in an application for an auto insurance policy.

Effective: January 1, 2008

House Bill 784 (Session Law 2007-81) Execution/Change Age

Amends G.S. 14-17 to require a person to be at least 18 years old at the time they committed a murder in order to be eligible for the death penalty. This provision is designed to conform North Carolina Statutes to an opinion of the Supreme Court of the United States, *Roper v. Simmons*. Previously, a person convicted of first degree murder could be considered for the death penalty if they were at least 18 years old at the time of the murder or if they committed the murder while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a murder.

Effective: June 14, 2007

House Bill 786 (Session Law 2007-183) LEO Provide Information to DA for Discovery

Amends G.S. 15A-903 to provide that upon the State's request, a law enforcement or prosecutorial agency shall make available to the State a complete copy of the complete files

related to the investigation of a crime or prosecution of a defendant for which the district attorney is required to disclose evidence to the defendant.

Effective: December 1, 2007

**House Bill 817 (Session Law 2007-163)
Residential Mortgage Fraud Act**

Adds new Article 20A to General Statutes Chapter 14 to enact the “Residential Mortgage Fraud Act.” Provides that residential mortgage fraud occurs when a person, for financial gain and with the intent to defraud, does any of the following: knowingly makes or attempts to make any material misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, mortgage broker, borrower, or any other person or entity that is involved in the mortgage lending process relies on it; knowingly uses or facilitates or attempts to use or facilitate the use of any misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, borrower or any other person or entity that is involved in the mortgage lending process relies on it; receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew, or should have known, resulted from a violation of the aforementioned provisions.; or conspires or solicits another to violate any of the aforementioned provisions. Violation is a Class H felony if it involves a single mortgage loan or a Class E felony if it involves a pattern of residential mortgage fraud.

Effective: December 1, 2007

**House Bill 976 (Session Law 2007-455)
Public Vehicular Areas Defined**

Expands the definition of public vehicular area in G.S. 20-4.01(32) to include a road used by vehicular traffic within or leading to a gated or non-gated subdivision or community, whether or not the subdivision or community roads have been offered for dedication to the public. Also enacts new G.S. 20-158.3 to provide that any person or entity having responsibility for a controlled access system on a road that is a public vehicular area shall provide a means of immediate access to all emergency service vehicles. A violation is an infraction under G.S. 20-176.

Effective: December 1, 2007

**House Bill 995 (Session Law 2007-211)
Increase Penalty/Starvation of Animals**

Adds new G.S. 14-360(a1) to make it a Class A1 misdemeanor to maliciously kill an animal by intentional deprivation of necessary sustenance.

Effective: December 1, 2007

**House Bill 1094 (Session Law 2007-463)
Increase Penalties for Audiovisual Piracy**

Changes the law from a Class 1 misdemeanor to a Class I felony for an offender to operate an audiovisual recording device in a motion picture theatre intended to record, transmit or otherwise make a copy of a motion picture without the written permission of the motion picture theatre owner. Provides for a minimum fine of \$2,500 for a first offense and \$5,000 for the second or subsequent offenses.

Effective: December 1, 2007

**House Bill 1231 (Session Law 2007-427)
Certain Law Enforcement Officers/Waive Handgun Permit**

In 2004, the United States Congress enacted HR 218 which authorized state and local law enforcement officers to carry concealed firearms nationwide as long as the law enforcement officers regularly qualified with a firearm and met certain other conditions. This federal law also authorized retired law enforcement officers to carry concealed firearms nationwide as long as they met the firearms qualifications standard for active law enforcement officers and complied with other criteria. To provide that a retired law enforcement officer in North Carolina has met the annual firearms qualification requirement, the officer could get their firearms re-qualification certified by the law enforcement agency from which the officer retired. In some cases, law enforcement agencies in North Carolina have declined to allow their retired law enforcement officers to be re-qualified annually by their agency. The federal law allows these officers and law enforcement officers retired from another state who now reside in North Carolina to have their annual firearms re-qualification certified by a state agency. However, no state agency in North Carolina had the legislative authority to issue this certification.

This legislation now designates the North Carolina Criminal Justice Education and Training Standards Commission as the appropriate state agency in North Carolina to issue such certification and authorizes the Commission to charge a reasonable fee for this service.

Effective: December 1, 2007

This bill also amends G.S. 14-269.2(g) to allow armored car/courier service guards properly registered by the Private Protective Services Board to carry firearms when discharging their official duties with the permission of a college or university. It also allows armed security guards to carry firearms while on the premises of a hospital or healthcare facility located on educational property when acting in the discharge of their official duties with the permission of the college or university.

Effective: August 23, 2007

House Bill 1277 (Session Law 2007-537)

Drivers License Revocation for ABC Violation

Requires any person convicted of giving alcoholic beverages to an underage person, or aiding and abetting in the purchase or possession of alcoholic beverages by an underage person, to have their driver's license revoked for one year. However, the person is eligible for a limited driving privilege.

Effective: December 1, 2007

**House Bill 1330 (Session Law 2007-289)
Exempt Law Enforcement from Back Seat Belts**

Amends G.S. 20-135.2A(c) to exempt from the seat belt requirement an occupant in a law enforcement officer's custody being transported in the backseat of a law enforcement vehicle.

Effective: July 27, 2007

**House Bill 1347 (Session Law 2007-196)
False Report/Mass Violence at School**

Adds new G.S. 14-277.5 making it a Class H felony to knowingly make a false report that an act of mass violence is going to occur on educational property or at an activity sponsored by a school.

Effective: December 1, 2007

**House Bill 1354 (Session Law 2007-178)
Motor Vehicle Chop Shop Act**

Creates G.S. 14-72.7 making it a Class H felony: to alter, destroy, disassemble, dismantle, reassemble or store any motor vehicle or motor vehicle part knowing it to have been illegally obtained by theft, fraud or other illegal means; for an owner or legal possessor of property to knowingly permit their place to be used for the aforementioned activity; to purchase, dispose of, sell, transfer, receive or possess a motor vehicle or motor vehicle part knowing the VIN has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged or removed; or to purchase, dispose of, sell, transfer, receive or possess a motor vehicle or motor vehicle part to or from a person known to be engaged in the aforementioned activities.

Also provides for forfeiture of personal property used in such activities under G.S. 14-86.1, and real property under Chapter 19 of the General Statutes.

Effective: December 1, 2007

**House Bill 1482 (Session Law 2007-199)
Amend Civil No-Contact Order Laws**

Amends G.S. 50C-1 to revise the definitions of “stalking” and “unlawful conduct” in the laws pertaining to civil no-contact orders.

Effective: July 8, 2007

**House Bill 1500 (Session Law 2007-539)
DNA Evidence/Preserve and Access by Defendant**

Allows a defendant who has previously had evidence DNA tested to have the evidence DNA tested again if more accurate testing procedures become available that were not available at the time of the previous testing and there is a reasonable possibility that the result would have been different if the newer test had been used. A defendant who files a motion for DNA testing of the evidence must sign a sworn affidavit of innocence.

This bill requires any governmental entity in custody of any physical evidence that is reasonably likely to contain any biological evidence collected during a criminal investigation to preserve that evidence in a manner reasonably calculated to prevent contamination or degradation of any biological evidence that might be present. This bill specifies that this type of evidence must be kept for certain periods of time: 1) in a death penalty case, until the defendant is executed; 2) for a conviction of a violent felony as defined in G.S. 14-7.7(b), the evidence shall be maintained as long as the defendant is incarcerated, except that if the person is convicted on a plea of guilty, the evidence must be retained only for three years from the date of conviction; 3) for offenses requiring sex offender registration, the evidence must be maintained for the defendant’s period of incarceration and any period of mandatory supervised release or probation; and 4) for conviction of any other felony not governed by the previous sections, if the defendant’s genetic profile may be included in the State DNA database, the evidence must be preserved for seven years from the date of conviction, except in cases where the person pled guilty in which case the evidence shall be preserved for three years from the date of conviction. This bill specifically allows the governmental entity in possession of the evidence to petition a court for an order allowing the disposition of the evidence prior to these specific time periods based on specific criteria listed in the law.

Effective: March 1, 2008

**House Bill 1617 (Session Law 2007-129)
Investigations of Deadly Force**

Enacts new G.S. 147-90 providing that in every instance in which a private citizen is killed as a result of the use of a firearm by a law enforcement officer in the line of duty, the district attorney in the prosecutorial district in which the death occurred shall, upon the request of the surviving spouse or next of kin of the private citizen within 180 days of the death, request the State Bureau of Investigation (SBI) to conduct an investigation into the incident.

Effective: October 1, 2007

**House Bill 1625 (Session Law 2007-421)
Eyewitness Identification Reform Act**

Adds new Article 14A to Chapter 15A of the General Statutes to sets out requirements for conducting live and photo lineups. The bill defines a “live lineup” as a procedure in which a group of people is displayed to an eyewitness. Therefore, these extensive procedures do not apply to what is commonly referred to as a “show-up.” The procedures outlined in the legislation are very similar to recommended procedures adopted previously by the North Carolina Criminal Justice Education and Training Standards Commission and included in the Basic Law Enforcement Training (BLET) Course. This bill requires, among other details, that a line-up be conducted by an “independent administrator” or by alternative methods described in the legislation; that photos be presented sequentially; that specified instructions be provided to the witness; that photos should resemble the perpetrator at the time of the offense; that a minimum of five fillers resembling the suspect be used; and that a record of the procedure be made including specified details.

This bill also provides that the North Carolina Sheriffs’ Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission, in consultation with the North Carolina Department of Justice, shall create educational materials and conduct training programs on how to conduct lineups in compliance with this new law.

Effective: March 1, 2008

**House Bill 1626 (Session Law 2007-434)
Enhance Reliability of Interrogations**

Adds new G.S. 15A-211 to require an electronic recording of custodial interrogations in homicide investigations conducted in a jail, detention center, police station or similar facility.

Effective: March 1, 2008

**House Bill 1755 (Session Law 2007-383)
Coordinate Statewide Enhanced 911 System**

Adds new G.S. 14-111.4 to make it a Class 3 misdemeanor for a person who is not seeking public safety assistance, is not providing 911 services, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication.

Effective: January 1, 2008

**House Bill 1758 (Session Law 2007-142)
Mercury Switch Removal Program Amendments**

Establishes criminal penalties in G.S. 130A-310.55 for persons who knowingly alter the condition of a vehicle in a manner that prevents or significantly hinders the removal of a mercury switch, fails to remove a mercury switch when required to do so, makes a false report that a mercury switch has been removed from an end-of-life vehicle, or claims a mercury switch from another source and falsely reports that it was removed from a vehicle processed for recycling. A mercury switch is defined as a capsule or assembly containing mercury that is part of a convenience light switch installed in a vehicle.

Effective: July 1, 2007

**House Bill 1810 (Session Law 2007-294)
Violence Against Women Act 2005 Compliance**

Adds new G.S. 15A-831.1 to provide that a criminal or juvenile justice agency shall not require a person claiming to be a victim of sexual assault or a witness to a sexual assault to submit to a polygraph as a precondition to an investigation. The new statute also requires an agency wishing to perform a polygraph on a person claiming to be a victim of or witness to a sexual assault to inform the person that: the polygraph examination is voluntary; the polygraph results are not admissible in court; and the person's decision to submit to or refuse the examination will not be the sole basis for a decision by the agency to not investigate the matter. An agency which declines to investigate an alleged sexual assault following a decision by a victim to not submit to a polygraph must provide to that person, upon their request, the reasons, in writing, why the agency did not pursue the investigation.

Effective: December 1, 2007

**Senate Bill 8 (Session Law 2007- 375)
Expand Safe Zones/Schools/Parks, Child Care Centers**

Amends G.S. 90-95(e)(8) and 90-95(e)(10) to increase from 300 feet to 1,000 feet the safe zones surrounding schools, child care centers and public parks regarding illegal drug sales. Also deletes the requirement that there must be a playground in a public park in order for the provisions of this statute to apply.

Effective: December 1, 2007

**Senate Bill 17 (Session Law 2007-172)
Sex Offenders/Pretrial Release**

Amends G.S. 15A-534.4 (bail and pretrial release for sex offenses and crimes of violence against child victims) to make conditions of pretrial release mandatory instead of discretionary. However, a judicial official may waive one or more of the conditions under subdivisions (1) and (2) if the official makes specified written findings.

Effective: December 1, 2007

Senate Bill 30 (Session Law 2007-116)
Domestic Violence Victims/Add Protections

Makes various changes to the domestic violence law for the protection of victims to include that the application and court record regarding name change proceedings are not required to be published when applicants provide evidence that they are a victim of domestic violence, sexual offense or stalking, or are participants in the Address Confidentiality Program in the Office of the Attorney General. The law requires that records are to be maintained separately from other records and may be examined only by a court order or with the applicant's written consent. When a domestic violence protective order is issued and filed with the Clerk of Superior Court, the clerk shall provide to the victim an informational sheet developed by the Administrative Office of the Courts that includes: 1) domestic violence agencies and services; 2) sexual assault agencies and services; 3) victims' compensation services; 4) legal aid services; 5) address confidentiality services; and 6) an explanation of the plaintiff's right to apply for a concealed handgun permit.

Effective: October 1, 2007

Senate Bill 34 (Session Law 2007-80)
Kill Police Animal

Makes it a Class H felony to willfully kill a law enforcement or assistance animal. The law also makes it an aggravating factor for other criminal offenses if a law enforcement or assistance animal was seriously harmed or killed while the animal was engaged in performing official duties.

Effective: December 1, 2007

Senate Bill 125 (Session Law 2007-134)
Alcohol Inhalers Illegal

Expands G.S. 90-113.10 to make it a Class 1 misdemeanor to knowingly breathe or inhale any compound, liquid or chemical containing ethyl alcohol for the purpose of inducing a condition of intoxication unless it is inhaled at the direction of a licensed medical provider. Enacts new G.S. 90-113.10A making it a Class 1 misdemeanor to knowingly manufacture, sell, give, deliver, possess, or use an alcohol vaporizing device. Expands G.S. 90-113.11 and G.S. 90-113.12 to include any compound, liquid, or chemical containing ethyl alcohol.

Effective: December 1, 2007

Senate Bill 806 (Session Law 2007-415)
Lengthen Hold Period for Pawned Items

Amends G.S. 91A-10(7) to extends from 48 hours to seven days the time period that must pass before pawned goods may be sold or otherwise removed from the pawn shop if the pawn ticket information is electronically reported to law enforcement, and extends the hold period to 30 days after the date of the transaction if the pawn ticket record is not electronically reported to law enforcement. Amends G.S. 91A-7(d) to provide that the records that must be submitted to local law enforcement can be submitted electronically or by facsimile transmission.

Effective: October 1, 2007

**Senate Bill 924 (Session Law 2007-382)
School Bus Safety Act Correction**

Revises the Class I felony in G.S. 20-217(g) to delete the requirement that a person who passes a stopped school bus must cause serious bodily injury when striking a person. Amends the definition of "school bus" in G.S. 20-4.01(27) so that the words "School Bus" no longer must be painted in letters at least eight inches high; the revised definition just requires that a school bus have the words "School Bus" plainly visible on the front and the rear.

Effective: December 1, 2007

**Senate Bill 925 (Session Law 2007-380)
Speeding Law Changes**

Amends G.S. 20-141(o) to provide that improper equipment is not a lesser-included offense of speeding if the speeding charge is 25 m.p.h. or more over the posted speed limit. Adds new G.S. 20-141(p) to provide that a driver charged with speeding in excess of 25 miles per hour over the posted speed limit is ineligible for a disposition of a prayer for judgment continued.

Effective: July 1, 2007

**Senate Bill 999 (Session Law 2007-493)
DWI Technical Corrections**

Makes various changes to the sentencing laws related to impaired driving offenses and makes numerous other changes to the motor vehicle laws pertaining to these types of offenses including but not limited to:

1. Death and injury by vehicle offenses as "offenses involving impaired driving": Amends GS 20-4.01(24a) to provide that any violation of G.S. 20-141.4 (felony and misdemeanor death by vehicle; felony serious injury by vehicle; aggravated offenses; repeat felony death by vehicle) based on impaired driving is an "offense involving impaired driving." Currently, only the death by vehicle offenses under G.S. 20-141.4 based on impaired driving are "offenses involving impaired driving."

Effective: August 30, 2007

2. License consequences for offenses: Amends G.S. 20-17 (mandatory revocation of license by Division of Motor Vehicles), G.S. 20-17.8 (restoration of a license after certain driving while impaired convictions; ignition interlock) and G.S. 20-19 (period of license suspension or revocation; conditions of restoration) to clarify the license consequences that arise from violations of G.S. 20-141.4 and make other changes to the revocation and restoration provisions.

Effective: August 30, 2007

3. Clarification of ignition interlock period: Amends G.S. 20-28(c4) to clarify the duration of the ignition interlock period imposed by DMV under subsection (c4). Subsection (c4) involves the conditional restoration of a license to a person who was convicted of either DWLR based on an impaired driving revocation under G.S. 20-28(a) or driving after notification from DMV or failure to appear under G.S. 20-28(a2).

Effective: August 30, 2007

4. Clarification of effective date of new evidence provisions: Provides that the 2006 changes to Rule of Evidence 702 addressing the introduction of HGN test results, DRE testimony and accident reconstruction expert testimony became effective August 21, 2006 and applies to hearings held on or after that date.

Effective: August 30, 2007

5. Clarification of start date for medical exception to ignition interlock: Clarifies that the 2006 amendment to G.S. 20-17.8 allowing for a medical exemption from the interlock requirements imposed on restored licenses is available to persons who committed a triggering offense before or after December 1, 2006.

Effective: August 30, 2007

6. Seizure clarifications: Amends G.S. 20-28.2(b) and (b1) to clarify that the judge may determine whether the vehicle should be forfeited at (among other times) a sentencing hearing for the underlying offense. (As amended in 2006, these provisions formerly authorized the judge to consider the forfeiture issue at any hearing on the underlying offense, which is inconsistent with other provisions in the seizure law). Also clarifies that the vehicle is subject to forfeiture if the court determines by the greater weight of the evidence that the defendant is guilty of an underlying offense involving impaired driving. (As amended in 2006, these provisions currently authorize forfeiture if the court finds by the greater weight of the evidence that the underlying offense involved impaired driving, without regard to the defendant's guilt. Again, this former language was inconsistent with other provisions in the seizure law.)

Effective: August 30, 2007

7. Repeat felony death by vehicle: Amends G.S. 20-141.4(a6) to make repeat felony death by vehicle a separate offense (as opposed to a sentence enhancement). Also addresses the proof of, and punishment for, this offense.

Effective: August 30, 2007

8. Dismissal explanations: Amends G.S. 20-138.4 (requirement that prosecutor explain reduction or dismissal of charge involving impaired driving) to clarify that the explanation requirements apply to “implied-consent cases.” (There are currently provisions in G.S. 20-138.4 that refer to an “offense involving impaired driving.” This has created some confusion because “implied consent offense” and “offense involving impaired driving” are not synonymous terms. This change is designed to eliminate this confusion.)

Effective: August 30, 2007

9. DWI aggravating factor based on alcohol concentration: Amends G.S. 20-179 to reduce from 0.16 to 0.15 the alcohol concentration that triggers aggravating factor (d)(1). Also provides that, for purposes of this aggravating factor, “the results of a chemical analysis shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.”

Effective: offenses committed on or after December 1, 2007

10. Alcohol concentration report by law enforcement to DMV: Amends G.S. 20-16.2 to reduce from 0.16 to 0.15 the alcohol concentration that triggers a post-arrest report from the law enforcement officer and the chemical analyst to DMV under subsection (c1).

Effective: offenses committed on or after December 1, 2007

11. Interlock requirement on restored license: Amends G.S. 20-17.8 to reduce from 0.16 to 0.15 the alcohol concentration that triggers the ignition interlock requirement for a restored license. Also provides that for purposes of G.S. 20-17.8, DMV will rely on the alcohol concentration reported by the officer and chemical analyst under G.S. 20-16.2(c1) rather than (as is currently the case) relying on a court finding reported by the clerk.

Effective: applies to offenses committed on or after December 1, 2007

12. Interlock requirement on limited driving privilege: Amends G.S. 20-179.3(g5) to reduce from 0.16 to 0.15 the alcohol concentration that triggers an interlock restriction on a limited driving privilege. Provides that, for purposes of subsection (g5), “the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person’s alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.” Also provides in new G.S. 20-179.3(c1)

that a limited driving privilege issued to a defendant convicted of an impaired driving offense who had an alcohol concentration of 0.15 or more at the time of the offense is subject to the following special conditions: 1) the privilege may not take effect until 45 days or more after the date of final conviction; 2) the person must comply with the ignition interlock requirements in subsection (g5); and 3) the person is limited to driving only to and from the person's place of employment, the place the person is enrolled in school, any court ordered treatment or substance abuse education, and any ignition interlock service facility. Again, for purposes of imposing these special conditions, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.

Effective: applies to offenses committed on or after December 1, 2007

13. Impaired driving by juveniles: Amends G.S. 7B-1903 (criteria for secure or nonsecure custody) to add the following new circumstances that will support a secure custody order: the juvenile has demonstrated that the juvenile is a danger to persons and is charged with a violation of G.S. 20-138.1 [impaired driving] or G.S. 20-138.3 [driving by persons less than 21 years old after consuming alcohol or drugs].

Effective: applies to offenses committed on or after December 1, 2007

Senate Bill 1009 (Session Law 2007-377)

Discovery/DA Notes

Amends G.S. 15A-904 to provide that the District Attorney is not required to disclose the identity of a confidential informant in a criminal case unless disclosure is otherwise required by law; nor to provide any personal identifying information about a witness other than the witness' name, address, date of birth and published telephone number, unless the court determines, after a motion is filed by the defendant, that additional information is necessary to accurately identify and locate the witness.

Effective: August 19, 2007

Senate Bill 1058 (Session Law 2007-374)

Telephone Records Privacy Protection Act

Adds new Article 19D to Chapter 14 of the General Statutes making it, under new G.S. 14-113.31, a Class H felony to obtain or attempt to obtain a person's telephone records without their consent by making false statements or representations or accessing accounts via the Internet; to purchase, receive or solicit another to purchase or receive a person's telephone records without that person's consent or when the purchaser or receiver knows or has reason to know the record was obtained fraudulently; to sell or offer to sell telephone records obtained without the customer's consent or when the seller knows or has reason to know the record was obtained fraudulently. Provides exceptions in G.S. 14-113.32.

Effective: December 1, 2007

**Senate Bill 1079 (Session Law 2007-547)
Protections for Human Trafficking**

This bill contains various provisions including a provision directing the North Carolina Justice Academy to develop training materials on the issue of human trafficking to be distributed to state and local law enforcement agencies across the State for their personnel.

Effective: December 1, 2007

**Senate Bill 1130 (Session Law 2007-393)
Broaden Open Discovery**

Amends G.S. 15A-903(a) to provide that the term “prosecutorial agency” includes any public or private entity that obtains information on behalf of a law enforcement agency or prosecutor in connection with the investigation of the crimes committed or the prosecution of the defendant.

Effective: October 1, 2007

**Senate Bill 1147 (Session Law 2007-481)
Dealer Motor Vehicle Inspection Changes**

Amends G.S. 20-79 to remove the requirement that a person operating a vehicle with a dealer plate carry a copy of the dealer plate registration card while operating the vehicle. Instead, the bill allows either the operator to carry the dealer plate registration card or if the vehicle is being operated in North Carolina, the card to be maintained on file at the dealer’s address if it can be produced within 24 hours upon the request of any law enforcement officer.

Effective: August 30, 2007

**Senate Bill 1211 (Session Law 2007-370)
Require Fingerprinting for DWI/DWLR**

Amends G.S. 15A-502 to require the fingerprinting and photographing of any person who has been arrested for any offense involving impaired driving or driving while license revoked (due to impaired driving) if the person cannot be identified by a valid form of identification.

Effective: October 1, 2007

**Senate Bill 1270 (Session Law 2007-373)
Amend Larceny Laws**

Amends G.S. 14-71 (receiving stolen goods) to provide that if a person knowingly receives or possesses property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency as stolen, the person is guilty of a Class H felony. Creates new 14-72.11 making it a class H felony to commit larceny against a merchant under the following circumstances: the property taken has a value in excess of \$200 and the person exits the premises of the store by using an exit door upon which has been placed a sign notifying persons that it is a felony to steal by using the exit door; by removing, destroying, or deactivating an inventory control device in order to prevent its activation; by affixing a product code created for the purpose of fraudulently obtaining merchandise at less than its actual sale price; or when the product is infant formula valued in excess of \$100. Adds new G.S. 14-86.6 making it a Class H felony to conspire with another person to commit theft of retail property from a retail establishment with a value exceeding \$1,500 aggregated over a 90-day period with the intent to sell that property for financial gain, or receiving or possessing any retail property taken or stolen in violation of the aforementioned provisions while knowing or having reasonable grounds to believe that the property is stolen.

Effective: December 1, 2007

**Senate Bill 1290 (Session Law 2007-165)
Alcohol Monitoring Systems for DWI Offenders**

Amends G.S. 20-19(e) (permanent driver's license revocation) to allow conditional restoration after 24 months under G.S. 20-17(a)(2) (DWI revocation) when the person satisfies certain conditions, including no consumption of alcohol for 12 months as verified by a continuous alcohol monitoring device.

Adds a new mitigating factor to G.S. 20-179(e) (DWI sentencing) when the defendant, among other things, maintains 60 days of alcohol abstinence as proven by a continuous alcohol monitoring device.

Adds new G.S. 20-179(h1) to provide that a judge may impose, as a condition of probation for Level One or Level Two DWI convictions, that the defendant abstain from alcohol consumption for a minimum of 30 days, up to a maximum of 60 days, as verified by a continuous alcohol monitoring system.

Amends G.S. 15A-1374(b) to add as an authorized parole condition that the parolee remain alcohol free and prove abstinence through a continuous alcohol monitoring device.

Effective: December 1, 2007

**Senate Bill 1359 (Session Law 2007-260)
Red Light Exception for Motorcycles**

Amends G.S. 20-158 to provide a defense to running a red light if the operator of a motorcycle stopped at the red light, waited a minimum of three minutes, and the inductive loop vehicle sensor failed to detect the motorcycle thereby activating a change to the traffic signal.

Effective: December 1, 2007

**Senate Bill 1456 (Session Law 2007-77)
Tandem Vehicle Operations on Highways**

Expands the law that allows tandem vehicle combinations on certain highways to apply to all highways within the State. Amends G.S. 20-116 to allow a motor vehicle combination of one semi-trailer of not more than 48-feet in length and a truck tractor (power unit) to exceed the 60-foot maximum length for vehicles coupled together.

Effective: June 14, 2007

**Senate Bill 1495 (Session Law 2007-404)
Vehicles Used for Towing to be Marked**

Amends G.S. 20-101 to require a motor vehicle that is towing another motor vehicle for hire to have the name and address of the registered owner of the vehicle and the name of the business printed on the side of the vehicle in letters not less than three inches in height. Also amends G.S. 20-135.2 to exempt from the seatbelt law drivers and passengers of residential garbage or recycling trucks while making their rounds or while traveling to and from loading and unloading locations.

Effective: December 1, 2007

**Senate Bill 580 (Session Law 2007-384)
New Retirement Option**

This bill provides an optional retirement benefit for all North Carolina law enforcement officers when they are eligible to retire. It is a totally voluntary option, and upon retirement, officers will be able to decide whether or not they would like to take advantage of the option. Officers who do not wish to take advantage of this optional benefit will get their regularly monthly retirement payment from the Retirement Systems Division and will be able to access their NC 401(k) funds under the terms of that plan.

Officers who elect to receive this optional combined benefit will be able to transfer their NC 401(k) funds to the Retirement Systems Division and will receive a higher monthly retirement payment that will include the value of their regular retirement benefit plus an increased amount that reflects the value of their 401(k) funds that were transferred to the retirement system. This option will be particularly beneficial for retired officers who do not wish to be responsible for managing their investment of their 401(k) funds after retirement.

Officers who are intending to retire soon that are interested in this option should consult with the Retirement Systems Division to discuss how this new optional benefit will apply. The Retirement Systems Division can be reached at 919-733-4191 or toll-free at 877-733-4191. The NC 401(k) Plan can be contacted toll-free at 866-624-0151.

Effective Date: August 19, 2007