



Police Law Bulletin



City Attorneys' Office

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2013 Legislation Affecting Criminal Law and Procedure



Below are brief summaries of selected legislation affecting criminal law and procedure that were enacted during the 2013 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.ncga.state.nc.us; click on Go in the Find a Bill box at the top of the page; insert the bill number, for example s912 or h2098; click the Look Up box; then click on the title of the bill located at the top of the screen.

Session Law 2013-6 House Bill 19

Disorderly Conduct at a Funeral

This act amends G.S. 14-288.4(a)(8), the disorderly conduct offense at a funeral or memorial service. The impermissible conduct will apply within two hours (currently, one hour) preceding, during, or after the funeral or memorial service, and will be prohibited within 500 feet (currently, 300 feet) of the ceremonial site, location of the funeral or memorial service, or the family's processional route. A violation of this subsection is increased from a Class 2 misdemeanor to a Class 1 misdemeanor for a first offense, from a Class 1 misdemeanor to a Class I felony for a second offense, and from a Class I felony to a Class H felony for a third or subsequent offense.

Effective: December 1, 2013

Session Law 2013-23 Senate Bill 20

Limited Immunity for Certain Drug and Alcohol Related Offenses

- **Drug-related overdose treatment.** This act creates new G.S. 90-96.2 to provide that a person acting in good faith who seeks medical assistance for an individual experiencing a "drug-related overdose" (defined in the act) shall not be prosecuted for: (1) misdemeanor possession of a controlled substance under G.S. 90-95(a)(3), (2) a felony violation of G.S. 90-95(a)(3) for possessing less than one gram of cocaine or heroin, or (3) misdemeanor possession of drug paraphernalia under G.S. 90-113.22, if the evidence for prosecution of these offenses was obtained as a result of the person seeking medical assistance for the drug-related overdose. The new statute also provides that a person who experiences a drug-related overdose and is in need of medical assistance shall not be prosecuted for the same offenses

set out above if the evidence for prosecution of these offenses was obtained as a result of the drug-related overdose and the need for medical assistance. However, the immunity set out above does not bar the admissibility of any evidence obtained in connection with the investigation and prosecution of other crimes committed by the person who otherwise qualifies for the immunity.

- **Treating overdose with opioid antagonist.** This act creates new G.S. 90-106.2 to provide that a “practitioner” (defined in G.S. 90-87(22) to include doctor, dentist, etc.) acting in good faith and exercising reasonable care may directly or by standing order prescribe an “opioid antagonist” (defined as naloxone hydrochloride) to (1) a person at risk of experiencing an opiate-related overdose, or (2) a family member, friend, or other person in a position to assist such a person. The statute provides that as an indicator of the practitioner’s good faith, the practitioner before prescribing the opioid may require a written communication with specified information from the recipient of the prescription. The new law sets out the standard for administering the opioid by the person who receives it. The statute provides immunity from civil and criminal liability for actions authorized by this new law for (1) a practitioner who prescribes the opioid, and (2) the person who administers the opioid.

- **Person under 21 possessing or consuming alcoholic beverages.** This act creates new G.S. 18B-302.2 to provide that a person under the age of 21 shall not be prosecuted for a violation of G.S. 18B-302 for the possession or consumption of alcoholic beverages if law enforcement, including campus police, became aware of a person’s possession or consumption of alcohol solely because he or she was seeking medical assistance for another individual, and the person (1) acted in good faith, on a reasonable belief that he or she was the first to call for assistance, (2) used his or her own name when contacting authorities, and (3) remained with the individual needing medical assistance until help arrived.

Effective: April 9, 2013

Session Law 2013-28
Senate Bill 123

Clarification to Existing Law Regarding Sex Offenders’ Residency Near Schools/Day Cares

This act was intended to clarify the applicability of G.S. 14-208.16, which prohibits a registered sex offender from knowingly residing within 1,000 feet of a school or child care center. The act amends G.S. 14-208.16(a) to provide that the residency prohibition applies to any registrant who did not establish his or her residence before August 16, 2006, by purchasing or leasing it before that date, or by residing with an immediately family member who did so. As described in the introductory language to the bill, the new language was added to correct law enforcement officials’ mistaken belief that the residency restriction did not apply to a registrant if he or she resided with an immediate family member who had established residence before August 16, 2006—even if the registrant himself or herself did not move in with the family member until after that date.

Effective: April 16, 2013

Session Law 2013-33
Senate Bill 122

Human Trafficking Conviction to Require Sex Offender Registration

G.S. 14-208.6(5) is amended so that the definition of “sexually violent offense” includes a conviction of human trafficking under G.S. 14-43.11 if the offense was committed against (1) a minor less than 18 years old, or (2) any person with the intent that the person be held in sexual servitude. The inclusion of this offense within the definition of “sexually violent offense” means that a convicted defendant would be required to register as a sex offender.

Effective: December 1, 2013

Session Law 2013-35
House Bill 75

**Increased Punishments For Various Felony Child Abuse Offenses;
Requirement That Judgment of Defendant Convicted of Child Abuse or Other Assaults Against A
Minor Reflect That The Offense Involved Child Abuse**

Various subsections of G.S. 14-318.4 are amended to increase the punishments for different types of felony child abuse offenses. Subsection (a) is amended so that the punishment for the intentional infliction of serious physical injury upon a child, or the intentional commission of an assault upon a child that results in serious physical injury, is increased from a Class E to a Class D felony. Subsection (a1) is amended so that the punishment for permitting, committing, or encouraging an act of prostitution with a child is increased from a Class E to a Class D felony. Subsection (a2) is amended so that the punishment for committing or allowing the commission of a sexual act upon a child is increased from a Class E to a Class D felony. Subsection (a3) is amended so that the punishment for intentionally inflicting serious bodily injury on a child, or committing an assault which results in serious bodily injury or permanent or protracted loss or impairment of any mental or emotional function of a child, is increased from a Class C to a Class B2 felony. Subsection (a5) is amended so that the punishment for a willful act or grossly negligent omission in the care of a child that shows a reckless disregard for human life resulting in serious physical injury to a child is increased from a Class H to a Class G felony

G.S. 15A-1382.1 is also amended to provide that when a defendant is found guilty of (1) an offense involving child abuse, or (2) an offense involving assault or any of the acts defined in G.S. 50B-1(a) (acts of domestic violence) and the offense was committed against a minor, the judge must indicate on the judgment form that the case involved child abuse. The clerk of court must ensure that the official record of the defendant's conviction includes the court's determination, so that any inquiry will reveal that the offense involved child abuse.

Effective: December 1, 2013

Session Law 2013-47
Senate Bill 117

Murder Includes When Child Born Alive Dies From Injuries Inflicted Before Birth

The act amends G.S. 14-17 to provide that it shall constitute murder when a child is born alive but dies as a result of injuries inflicted before the child was born. Also provides that the act shall not be construed to apply to an unintentional act or omission committed by the child's birth mother during the pregnancy that culminated in the child's birth.

Effective: December 1, 2013

Session Law 2013-52
House Bill 149

Failure to Report Disappearance of Child, Child Victim, or Other Acts

The act creates new G.S. 14-318.5 to provide that a parent or any other person providing care to or supervision of a child who knowingly or wantonly fails to report the disappearance of a child under 16

years old to law enforcement commits a Class I felony. A person who reasonably suspects the disappearance of a child under 16 years old and reasonably suspects the child may be in danger must report those suspicions to law enforcement within a reasonable time; a violation of this duty to report is a Class 1 misdemeanor. The term “disappearance of a child” means that the parent or other person providing supervision of a child does not know the location of the child and has not had contact with the child for a 24-hour period. These reporting requirements do not require teachers to report a child’s absence from school to law enforcement.

The act amends G.S. 14-318.4 (felony child abuse) to provide that “grossly negligent omission,” a term used in some of the offenses, includes the failure to report a child as missing to law enforcement under G.S. 14-318.5.

Child care facility report of missing child. Amends G.S. 110-102.1(a), which requires child care facility operators and staff to immediately report a missing child to law enforcement, (1) to change the age of the child from under 18 years old to under 16 years old, and (2) to make clear that the duty to report in this statute exists notwithstanding the provisions of G.S. 14-318.5.

New subsection (a1) is added to G.S. 14-401.22 to provide that a person who, with the intent to conceal the death of a child under 16 years old, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead child’s body commits a Class H felony. Also provides that a person who violates subsection (a1), knowing or having reason to know the body or human remains are of a person who did not die of natural causes, commits a Class D felony.

The act amends G.S. 14-225 (false reports to law enforcement agencies or officers) by requiring that misleading reports to law enforcement have been made “deliberately” in order to constitute an offense. The amendment also provides that a violation of the statute is a Class H felony if the false, deliberately misleading, or unfounded report relates to a law enforcement investigation involving the disappearance of a child under 16 years old as provided in G.S. 14-318.5 or a child victim of a Class A, B1, B2, or C felony offense.

The act amends G.S. 7B-301 (duty to report abuse, neglect, dependency, or death due to maltreatment) to provide that a person or institution who knowingly or wantonly fails to report the case of a juvenile as required by the statute, or who knowingly or wantonly prevents another person from making a required report, commits a Class 1 misdemeanor. Also provides that a director of social services who receives a report of sexual abuse of a juvenile in a child care facility and who knowingly fails to notify the State Bureau of Investigation of the report commits a Class 1 misdemeanor.

Effective: December 1, 2013

Session Law 2013-53
Senate Bill 91

Expunctions and Applications for Employment

This act adds new G.S. 15A-153 which contains the following provisions: Subsection (b) protects against prosecutions for perjury or false statements for failing to acknowledge specified expunged information, except as provided in subsection (e). Subsection (c) prohibits an employer or educational institution from requiring in an application for employment or admission, interview, or otherwise, that an applicant provide information about an arrest, criminal charge, or criminal conviction that has been expunged. This provision does not apply though to any state or local law enforcement agency authorized under G.S. 15A-151 to obtain confidential information for employment purposes. Subsection (d) requires a state or local government that requests disclosure of information from an applicant for employment about an arrest,

criminal charge, or criminal conviction to first advise the applicant that state law allows the applicant to not refer to an arrest, charge, or conviction that has been expunged. An application shall not be denied solely because of the applicant's refusal or failure to disclose expunged information. Subsection (e) provides though that the provisions of subsection (d) do not apply to an applicant or licensee seeking or holding any certification issued by the Criminal Justice Education and Training Standards Commission or the Sheriffs Education and Training Standards Commission; it specifically requires a person pursuing certification to disclose felony convictions expunged under G.S. 15A-145.4 and all convictions expunged under G.S. 15A-145.5. Subsection (f) provides for civil penalties for employer violations of subsection (c). Provides that G.S. 15A-153 shall not be construed to create a private cause of action against any employer or its agents or employees, educational institutions or their agents or employees, or state or local government agencies, officials, or employees.

Effective: December 1, 2013

Session Law 2013-76
House Bill 829

Certain ABC Permittees Allowed To Sell Malt Beverages In Specified Containers For Consumption Off Permitted Premises

This act amends G.S. 18B-1001 to authorize the Alcoholic Beverage Control Commission to allow the retail sale of malt beverages in a cleaned, sanitized, resealable container (known as a growler) that is filled or refilled and sealed for consumption off the premises, by on-premises malt beverage permittees, off-premises malt beverage permittees, and wine shop permittees.

Effective: June 12, 2013

Session Law 2013-83
House Bill 610

Expand Number of Stadiums and Ballparks Where Malt Beverages May Be Sold During Professional Sporting Events by a Retail Permittee

This act amends G.S. 18B-1009 to specify that Chapter 18B of the General Statutes does not prohibit the sale for consumption during professional sporting events of malt beverages by a retail permittee under specified circumstances in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of 3,000 or more (the prior version of this statute required a seating capacity of 60,000 or more and in a municipality with a population greater than 450,000).

Effective: June 12, 2013

Session Law 2013-88
Senate Bill 634

Increased Penalties for Interference with Gas, Water or Electric Lines

This act amends G.S. 14-151 (interfering with gas, electric, and water meters or lines) to increase the punishment from a Class 2 misdemeanor to a Class 1 misdemeanor. It makes a second or subsequent violation a Class H felony. A violation that results in "significant property damage" or "public endangerment" (these terms are not defined) is a Class F felony. A violation that results in the death of another is a Class D felony unless the conduct is covered under some other provision providing greater punishment. Clarifies that water meters and connections are covered by the statute.

Effective: December 1, 2013

Session Law 2013-90
Senate Bill 252

Increased Penalties for Employee of Registrant or Practitioner Who Embezzles Controlled Substances

This act amends G.S. 90-108(b) to increase the punishment from a Class I to a Class G felony for an intentional violation of G.S. 90-108(a)(14), which involves the embezzlement of controlled substances by an employee of a registrant or practitioner (doctor, dentist, pharmacy, etc.).

Effective: December 1, 2013

Session Law 2013-95
House Bill 25

Felony to Break or Enter Building With Intent to Terrorize or Injure Occupant

This act amends G.S. 14-54 to add new subsection (a1) to provide that it is a Class H felony when a person breaks or enters a building with the intent to terrorize or injure an occupant.

Effective: December 1, 2013

Session Law 2013-105
House Bill 532

Operating Ambulance, Other EMS Vehicle, Firefighting Vehicle, or Law Enforcement Vehicle After Consuming Alcohol

This act amends G.S. 20-138.2B to prohibit operating an ambulance, other emergency medical services vehicle, firefighting vehicle, or law enforcement vehicle on a highway or public vehicular area after consuming alcohol or while alcohol remains in the person's body. The statute does not apply to law enforcement officers acting in the course of, and within the scope of, their official duties.

Effective: December 1, 2013

Session Law 2013-109
House Bill 813

Expanded Definition of Banned Synthetic Cannabinoids

This act amends G.S. 90-94(3) to expand the definition of synthetic cannabinoids that are illegal to manufacture, possess, sell, deliver, etc. See the specific wording of the revised definition in the act, which includes tetramethylcyclopropanoylindoles.

Effective: July 1, 2013

Session Law 2013-123
House Bill 24

Amendments to Regular Probation Condition Requiring Defendant Attend and Complete Domestic Violence Abuser Treatment Program

This act amends G.S. 15A-1343(b)(12) (regular condition of probation that defendant attend and complete domestic violence abuser treatment program). For supervised probation, the probation officer must forward a copy of the judgment to the treatment program, the program must notify the probation officer if the defendant fails to participate or is discharged for violating the program or its rules, and the probation officer must then file a violation report and notify the district attorney. For unsupervised probation, the defendant must notify the district attorney and treatment program of his or her choice of program if the program has not previously been selected, the district attorney must forward a copy of the judgment to the treatment program, and if the defendant fails to participate or is discharged for violating the program or its rules, the program must notify the district attorney.

Effective: December 1, 2013

Session Law 2013-124
House Bill 29

Enhanced Punishments for Certain Pseudoephedrine and Methamphetamine Offenses.

Amends G.S. 90-95(d1) to provide that unauthorized possession of a pseudoephedrine product is a Class H felony if the person has a prior conviction for possession or manufacture of methamphetamine. Amends G.S. 15A-1340.16D to provide that if a person is convicted of manufacture of methamphetamine under G.S. 90-95(b)(1a) and a minor under 18 years old or a disabled adult resided on the property used for manufacturing methamphetamine, or was present at the location where methamphetamine was being manufactured, the minimum term to which the defendant is sentenced for that felony is increased by 24 months; if both a minor and a disabled or elder adult resided there or was present at the location, the minimum sentence is increased by 48 months.

Effective: December 1, 2013

Session Law 2013-144
Senate Bill 124

Discharging Firearm Within Building or Other Enclosure With Intent to Incite Fear

Creates new G.S. 14-34.10 to provide that, unless covered under some other law providing greater punishment, a person commits a Class F felony if the person willfully and wantonly discharges or attempts to discharge a firearm within any occupied building, structure, motor vehicle, or other conveyance, etc., with the intent to incite fear in another.

Effective: December 1, 2013

Session Law 2013-147
House Bill 850

No Charge If Person Informs Officer of Presence of Hypodermic Needle Before Search

Amends G.S. 90-113.22 (possession of drug paraphernalia) to provide that an officer, before searching a person or the person's premises or vehicle, may ask if the person possesses a hypodermic needle or other

sharp object that may cut or puncture the officer, or whether such an object is on the premises or in the vehicle. If the person informs the officer of the presence of such an object before the search, the person may not be charged with or prosecuted for possession of drug paraphernalia. The exemption from charge and prosecution does not apply to any other drug paraphernalia found during the search.

Effective: December 1, 2013

Session Law 2013-152
Senate Bill 222

Revisions to North Carolina Controlled Substances Reporting System Act

This act revises various provisions of Article 5E of Chapter 90 of the General Statutes, the North Carolina Controlled Substances Reporting System Act. G.S. 90-113.74(c)(5) is amended to require the Department of Health and Human Resources to release data in their prescription reporting system to a sheriff, police chief, or their designated deputy or police investigator who is assigned to investigate the diversion and illegal use of prescription medication or pharmaceutical products identified as Schedule II through V controlled substances and who is engaged in a bona fide specific investigation concerning the enforcement of laws governing licit drugs pursuant to a lawful court order specifically issued for that purpose.

Effective: June 19, 2013

Session Law 2013-154
Senate Bill 306

Repeal of North Carolina Racial Justice Act and Other Changes Concerning Capital Punishment

This act repeals the North Carolina Racial Justice Act (Article 101 of G.S. Chapter 15A). The Racial Justice Act, enacted in 2009, provided a procedure for a defendant to prove that race was a significant factor in decisions to seek or to impose a death sentence. If a court made such a finding, it was required to order that a death sentence not be sought or imposed or that a death sentence already imposed be vacated and the defendant be resentenced to life imprisonment without the possibility of parole.

This act provides that the repeal is retroactive (other than for a defendant already resentenced, see below) and applies to any motion for appropriate relief filed before the act's effective date. The act states that all such motions are void. The repeal does not apply to a court order which resentenced a defendant to life imprisonment without parole before the effective date, if the order is affirmed on appellate review and becomes a final order. However, the repeal is applicable if the order is vacated on appellate review. Health care professional's assistance with execution. The act adds new G.S. 15-188.1 to provide that any assistance with an execution by any licensed health care professional, including, but not limited to, physicians, nurses, and pharmacists, shall not be a cause for any disciplinary or corrective measures by any board, commission, etc., that regulates the practice of health care professionals. The statute states that the infliction of the punishment of death by administration of required lethal substances shall not be construed to be the practice of medicine. Conforming changes are made to statutes regulating particular health professionals.

Time for execution. The act amends G.S. 15-194 to provide that the Attorney General of North Carolina must provide written notification to the Secretary of the Department of Public Safety of the occurrence of events (termination of certain court proceedings, failure to file motions, etc.) set out in the statute not more than 90 days from that occurrence. The Secretary must immediately schedule a date for execution not less than 15 days or more than 120 days from the date of receiving notification from the Attorney General. The Attorney General must submit a written report to the Joint Legislative Oversight Committee

on Justice and Public Safety by April 1, 2014, and thereafter annually on October 1 on the status of all pending postconviction capital cases. The chairs of this committee may modify these dates.

Manner of execution and people designated to execute death sentence. The act amends G.S. 15-188 to provide that the mode of execution is the administration of an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the person is dead, and that procedure shall be determined by Secretary of the Department of Public Safety, who must ensure compliance with federal and state constitutions (the prior version of the statute described the substance as a lethal quantity of an ultrashort acting barbiturate in combination with a chemical paralytic agent until the person was dead).

The act amends G.S. 15-190 to require the warden to report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter annually on October 1 on the status of the people required to be named and designated by the warden to execute death sentences. The report must confirm that the required people are properly trained and ready to serve as an execution team. The chairs of this committee may modify the reporting dates set out above.

Effective: June 19, 2013

Session Law 2013-158
Senate Bill 443

Disposition of Firearms

Amends G.S. 15-11.1(b1)(3) to allow a court to order a firearm that was seized as evidence to be destroyed only if the firearm does not have a legible, unique identification number, or is unsafe for use because of wear, damage, age or modification. Otherwise, the firearm may be ordered returned to the rightful owner, or turned over to a law enforcement agency for either its official use or for sale/trade or exchange to a federally licensed firearms dealer. Previously, any firearm seized as evidence could have been ordered destroyed.

Amends G.S. 15-11.2, which regulates the disposition of unclaimed firearms that were not seized or confiscated as potential evidence, as follows: 1. removes the provisions which allowed the person who found the firearm to claim it if the rightful owner failed to do so; 2. transfers the authority to order the disposition of these firearms from a judge to the head of the law enforcement agency; and 3. requires that the firearm be disposed of in one of the following ways: a) by being destroyed if the firearm does not have a unique and legible identification number, or is unsafe for use because of wear, damage, age or modification; b) if the firearm has a unique and legible identification number, by sale, trade or exchange of the firearm to a federally license firearms dealer, or by sale at a public auction to persons licensed as firearms collectors, dealers, importers or manufacturers; c) by allowing the law enforcement agency to maintain the firearm but only for training purposes; or d) by transferring the firearm to a museum or historical society. If the firearm is sold, the proceeds are retained by the department and must be used for law enforcement purposes. Records and inventories must be maintained of all firearms received by the agency in this manner, the disposition of the firearms, and any funds received from the sale of the firearms as well as any firearms or other property received in exchange or trade for the firearms.

Effective: September 1, 2013

Session Law 2013-165
Senate Bill 530

Distribution to Minor of Tobacco-Derived Products and Vapor Products Prohibited

Amends G.S. 14-313 to prohibit the distribution of tobacco-derived products and vapor products to minors. "Tobacco-derived product" is defined as a noncombustible product derived from tobacco that contains nicotine and is intended for human consumption. "Vapor product" is defined as a noncombustible product that includes an electronic cigarette, cigar, cigarillo, and pipe. It amends the definition of "tobacco product" to include tobacco-derived product, vapor product, or components of a vapor product. It clarifies that the sale of cigarette wrapping papers is included in the offense requiring proof of age. The act requires a person who engages in distributing tobacco products through the Internet or other remote sales methods to perform an age verification through an independent, third-party age verification service as specified in the act.

Effective: August 1, 2013

Session Law 2013-169
Senate Bill 583

Revised Definitions for Statutes Regulating Secondary Metals Recyclers

This act amends definitions in G.S. 66-420 involving the regulation of sales and purchases of metal. The definition of "card cash system" is revised to mean a system of payment that provides payment in cash or in a form other than cash; and that when providing payment in the form of cash the system (i) captures a photograph of the seller when the payment is received, and (ii) uses an automated cash dispenser, including but not limited to an automated teller machine. The definition of "copper" is revised to add nonferrous metals, including but not limited to copper wire, copper clad steel wire, copper pipe, bars, sheeting, tubing, and pipe fittings, and insulated copper wire; it does not include brass and bronze alloys, lead nickel, zinc, or items not containing a significant quantity of copper.

Effective: June 19, 2013

Session Law 2013-170
Senate Bill 584

Filing False Lien

G.S. 14-118.6 (filing false lien or encumbrance against real or personal property of public officer or employer on account of performance of official duties) is amended to include an immediate family member of the public officer or employee, defined as a spouse or child.

Effective: December 1, 2013

Session Law 2013-171
Senate Bill 630

Amendments to Laws Concerning Disposition of Blood and Urine Samples, Admissibility of Reports After Notice and Demand, and Exunction of DNA Samples Taken After Arrest

This act adds new subsection (h) (disposition of blood and urine evidence involving implied consent offenses) to G.S. 20-139.1 to provide that any blood or urine sample subject to chemical analysis for the presence of alcohol, a controlled substance, etc., may be destroyed by the analyzing agency 12 months

after the case is filed or is concluded in the trial court and not appealed, whichever is later, without notice to the parties. However, if a motion to preserve the evidence has been filed by either party, the evidence must remain in the custody of the analyzing agency or the agency that collected the sample until the entry of a court order concerning its disposition.

Effective: June 19, 2013

The act amends various statutes allowing the admissibility of a laboratory report, affidavit, or statement to clarify that they “shall” (prior law used “may”) be admissible without the necessity of testimony if the defendant or attorney fails to file a written objection. These statutes are: G.S. 8-58.20(f) (forensic evidence); G.S. 8-58.20(g) (chain of custody); G.S. 20-139.1(c1) (chemical analysis of blood or urine); G.S. 20-139.1(c3) (chain of custody); G.S. 20-139.1(e1) (chemical analyst’s affidavit in district court); G.S. 90-95(g) (chemical analysis for controlled substance); and G.S. 90-95(g1) (chain of custody).

Effective: December 1, 2013

The act amends G.S. 15A-266.3A(k) (DNA sample after arrest for certain offenses) to provide that the SBI must, within 90 days (prior law, 30 days) of receipt of a verification form, comply with the duties set out in the statute concerning the possible expunction of the defendant’s DNA record and samples.

Effective: December 1, 2013

Session Law 2013-190
Senate Bill 8

Increased Fine for Unauthorized Parking in Private Parking Lots

Amends G.S. 20-219.2 to increase the fine for unauthorized parking in private parking lots from not more than \$100.00 to not less than \$150.00.

Effective: December 1, 2013

Session Law 2013-203
House Bill 891

Procedure to Freeze Assets of Defendant Charged with Exploitation of Elder or Disabled Adult

Amends G.S. 14-112.2 to provide that if a defendant is charged with exploitation of an elder or disabled adult that involves funds, assets, or property valued at more than \$5,000, the district attorney may file a petition in the pending criminal case to freeze the assets of the defendant in the amount of 150% of their alleged value for use as restitution to the victim. The standard of proof to support the petition is by clear and convincing evidence. New G.S. 14-112.3 sets out the procedure for filing the petition. It also provides that in any proceeding to release the assets filed by a motion of the defendant or other person claiming an interest in the assets, the State must prove that the defendant is about to, intends to, and did divest himself or herself of the assets in a manner that would make the defendant insolvent for restitution. A court must vacate the order to freeze assets if the criminal charge is voluntarily dismissed or the defendant is found not guilty.

Effective: October 1, 2013

Session Law 2013-205
House Bill 333

Amendments to Sex Offender Statutes Involving Registration and Residency

This act amends G.S. 14-208.11(a)(1) (sex offender's failure to register) to include within the offense of willfully failing to register, the failure to register with the sheriff in the county designated by the defendant under G.S. 14-208.8 as his or her expected county of residence. Amended G.S. 14-208.11 effectively provides that a defendant arrested for violating the statute must be prosecuted in the prosecutorial district that includes the sheriff's office in the county where the defendant failed to register. If the arrest is made outside the prosecutorial district, the defendant must be transferred to the custody of the sheriff of the county where the defendant failed to register.

Effective: June 26, 2013

Session Law 2013-209
House Bill 597

Official Shield for Bail Bondsmen and Runners

This act amends G.S. 58-71-40 to authorize bail bondsmen and runners, while engaged in official duties, to possess and display a shield designed as specified in the act. A shield deviating from the design requirements is unauthorized and its possession is a violation of the statute (which would be a Class 1 misdemeanor under G.S. 58-71-185).

Effective: June 26, 2013

Session Law 2013-229
Senate Bill 264

Amendments to Civil Nuisance Abatement Law

Article 1 of G.S. Chapter 19 authorizes the Attorney General, district attorney, local government, or private citizen to bring a civil action to abate nuisances involving buildings and places used for illegal sales of drugs, obscenity, alcohol, prostitution, etc. This act amends G.S. 19-1 to state that: (1) the activity sought to be abated need not be the sole purpose of the building for it to constitute a nuisance; and (2) a nuisance action may not be brought against a place or business that is subject to regulation under G.S. Chapter 18B (regulation of alcoholic beverages) when the basis for the action is a violation of the laws and regulations of the chapter concerning the possession or sale of alcoholic beverages.

Effective: July 3, 2013

Session Law 2013-231
Senate Bill 568

Restricted Driver's License for Person Using Biotopic Telescopic Lenses

The act amends G.S. 20-7 to authorize a person using biotopic telescopic lenses to obtain a regular Class C driver's license if the person satisfies specified conditions. The person is permitted to operate a motor vehicle only during the period beginning one-half hour after sunrise and ending one-half hour before sunset. However, the act allows operation between one-half hour before sunset and ending one-half hour after sunrise under certain circumstances.

Effective: July 3, 2013

Session Law 2013-237
House Bill 209

Consensual Domestic Violence Protective Order

This act amends G.S. 50B-3 to provide that a consent domestic violence protective order may be entered without findings of fact and conclusions of law if the parties agree in writing to do so. The order will be valid and enforceable the same as an order entered with factual findings and legal conclusions.

Effective: October 1, 2013

Session Law 2013-241
House Bill 626

Notice of Tow to Law Enforcement Agency

This act creates new G.S. 20-219.20 to provide that when a vehicle is towed at the request of a person other than the vehicle owner or operator, the tower must provide, before moving the vehicle, the following information to the local law enforcement agency: description of the vehicle; place from which the vehicle was towed; place where vehicle will be stored; and contact information for the owner to retrieve the vehicle. Notification may be provided within 30 minutes of moving the vehicle if the vehicle is impeding the flow of traffic or otherwise jeopardizing the public welfare so immediate towing is necessary. This statute does not apply when a vehicle is towed at a law enforcement officer's direction or from a private lot where signs are posted under G.S. 20-219.2(a). A violation of the statute is an infraction with a penalty of not more than \$100.00.

Effective: December 1, 2013

Session Law 2013-244
House Bill 656

Forfeiture of Motor Vehicle for Felony Speeding to Elude Arrest

This act repeals the current provisions in G.S. 20-141.5(g) through (j) concerning the seizure, forfeiture, and sale of a motor vehicle driven by the defendant while committing felony eluding arrest. Such vehicles remain subject to seizure and forfeiture, but the procedures have been changed to essentially those which are used for the seizure and forfeiture of vehicles involved in impaired driving offenses. Accordingly, G.S. 20-28.2 (forfeiture of motor vehicle for impaired driving after impaired driving license revocation), G.S. 20-28.3 (seizure, impoundment, forfeiture of motor vehicles for offenses involving impaired driving while license revoked or without license and insurance), G.S. 20-28.4(a) (release of seized vehicle at conclusion of trial), 20-28.8 (reports to be sent to DMV), and G.S. 20-54.1 (forfeiture of right of registration), which are currently applicable to the seizure, forfeiture, and sale of motor vehicles involved with impaired driving offenses, have all been amended so that the procedures set forth are also applicable to felony speeding to elude arrest.

Effective: December 1, 2013

Session Law 2013-244
House Bill 784

Worthless Check Amendments

This act amends G.S. 14-107(a) and (b) (worthless check offenses) to make these offenses applicable when a check has been paid in full and the defendant subsequently presents the check again for payment. Also amends G.S. 14-107.1 to provide that checks refused to be honored by a bank may be submitted as evidence if they are stamped or marked with any one of a number of terms, such as: “insufficient funds,” “no account,” “account closed,” “NSF,” “uncollected,” “unable to locate,” “stale dated,” “postdated,” “endorsement irregular,” “signature irregular,” “nonnegotiable,” “altered,” “unable to process,” “refer to maker,” “duplicate presentment,” “forgery,” “noncompliant,” or “UCD noncompliant.” The act makes similar changes to G.S. 6-21.3 (civil remedies for returned check).

Effective: December 1, 2013

Session Law 2013-275
House Bill 783

Pyrotechnics Displays

The act makes various technical and conforming amendments to the statutes governing the exhibition of pyrotechnics (G.S. 14-410, 14-413, 58-82A-3, and 58-82A-25). Of the substantive changes, G.S. 14-410 is amended to allow pyrotechnics to be exhibited, manufactured, etc.: (1) as a special effect by a production company for a motion picture production if the motion picture set is closed to the public or is separated from the public by a minimum of 500 feet; or (2) for pyrotechnic or proximate audience display instruction consisting of classroom and practical skills training approved by the Office of State Fire Marshal.

Effective: July 18, 2013

Session Law 2013-276
House Bill 137

Increased Rewards by the Governor

This act amends G.S. 15-53 and G.S. 15-53.1 to increase from \$10,000 to \$100,000 the amount of a reward the Governor may offer and pay to a person who apprehends a fugitive or provides information leading to the arrest and conviction of a person.

Effective: July 18, 2013

Session Law 2013-286
House Bill 345

Increased Penalty for Misuse of 911 System

This act makes the punishment for all violations of G.S. 14-111.4 (misuse of 911 system) a Class 1 misdemeanor. The current statute provides that a violation is a Class 3 misdemeanor, but certain aggravated acts constitute a Class 1 misdemeanor.

Effective: December 1, 2013

Session Law 2013-293
House Bill 428

Stopped School Bus Law Changes

This act makes several changes involving the stopped school bus violations under G.S. 20-217. It retains the punishment as a Class 1 misdemeanor but requires the payment of a minimum \$500 fine. It also requires a minimum \$1,250 fine for the Class I felony offense when the defendant also strikes a person, and a minimum \$2,500 fine for the Class H felony offense when striking a person results in that person's death. It establishes various driver's license revocations for committing the misdemeanor and felony violations in G.S. 20-217. It provides that a person whose driver's license is revoked for a violation is also disqualified under G.S. 20-17.4 from driving a commercial motor vehicle for the time period in which the license remains revoked. The defendant's failure to pay fines or costs imposed for a violation will result in the Division of Motor Vehicles withholding the registration renewal of a motor vehicle registered in the defendant's name. The act states that the General Assembly encourages local school boards to use the proceeds of any fines collected for violations of G.S. 20-217 to purchase automated camera and video recording systems to install on school buses to help detect and prosecute violators.

Effective: December 1, 2013

Session Law 2013-298
Senate Bill 316

Pretrial Release

This act makes several changes to pretrial release provisions. It adds new G.S. 15A-533(f) to provide that there is a rebuttable presumption that no condition of release will reasonably assure the appearance of the defendant as required and the community's safety if a judicial official finds there is reasonable cause to believe that the defendant committed a felony or Class A1 misdemeanor involving the illegal use, possession, or discharge of a firearm, and the official also finds (1) the offense was committed while the defendant was on pretrial release for another felony or Class A1 misdemeanor involving the illegal use, possession, or discharge of a firearm, or (2) the defendant has previously been convicted of a felony or Class A1 misdemeanor involving the illegal use, possession, or discharge of a firearm and not more than five years have elapsed since the date of conviction or the defendant's release for the offense, whichever is later. A defendant considered for bond under this provision may only be released by a district or superior court judge, and the judge must find there is a reasonable assurance that the person will appear for trial and release does not pose an unreasonable risk of harm to the community. The act amends G.S. 15A-534(d1) to raise from \$500 to \$1,000 the minimum amount of the secured bond under the subsection if no bond had yet been required for the charges. The act adds new G.S. 15A-534(d3) to provide that when pretrial release conditions are being determined for a defendant who is charged with an offense and the defendant is currently on pretrial release for a prior offense, the judicial official must require a secured appearance bond in an amount at least double the amount of the most recent prior secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of \$1,000.

Effective: December 1, 2013

Session Law 2013-301
Senate Bill 465

Sale, Purchase, Installation, Possession of Automated Sales Suppression Device

This act creates new G.S. 14-118.7 to prohibit the sale, purchase, installation, possession, etc., of an automated sale suppression device, zapper, or phantom-ware. A violation is a Class H felony with a minimum \$10,000 fine. An “automated sales suppression device or zapper” is defined as a software program that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including transaction data and reports. “Phantom-ware” is defined as a hidden programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a second set of records or may eliminate or manipulate transaction records, which may or may not be preserved in digital formats, to represent the true or manipulated record of transactions in the electronic cash register. Any person who violates this statute is liable for all taxes, fees, penalties, and interest due to the State as the result of the use of these devices and must forfeit to the State as an additional penalty all profits associated with the sale or use of the devices.

Effective: December 1, 2013

Session Law 2013-323
House Bill 26

Chop Shop Activity

This act amends G.S. 14-72.7 (chop shop activity) (1) to increase the punishment from a Class H felony to a Class G felony, and (2) to add “reasonable grounds to believe” as an alternative to “knows” or “knowing” in proving the offenses set out in subsection (a) of the statute. The act also amends G.S. 20-62.1 (purchase of vehicles for purposes of scrap or parts only) to increase the punishment set out in subsection (c) to a Class I felony with a mandatory minimum \$1,000 fine (current law provides for a Class 1 misdemeanor for a first offense and a Class I felony for a second or subsequent offense). Amended G.S. 20-62.1(a)(1) requires that the record of a purchase must be maintained on a form, or in a format, as approved by the Division of Motor Vehicles (DMV). New G.S. 20-62.1(a)(1a) requires a purchaser to verify with the DMV whether or not the motor vehicle has been reported stolen. New G.S. 20-62.1(a1) requires, within 72 hours of each day’s close of business, a secondary metals recycler or salvage yard purchasing a motor vehicle under subsection (a) to submit specified information to the National Motor Vehicle Title Information System (NMVTIS) or report the required information to a third-party consolidator as long as the consolidator reports the information to NMVTIS. New G.S. 20-62.1(b1) provides that the information obtained by the DMV under the statute shall be made available only to law enforcement agencies and is not a public record under G.S. 132-1.

Effective: December 1, 2013

Session Law 2013-337
Senate Bill 140

Exploitation of Older or Disabled Adult

This act amends G.S. 14-112.2 by replacing the definition of “elder adult” (person 60 years older or older unable to provide for specified services) with “older adult” (person 65 years old or older) and substitutes “older adult” for “elder adult” throughout the statute. It amends G.S. 14-112.2(c) to insert the introductory language as “unlawful for a person to knowingly, by deception or intimidation . . .” in place of “unlawful for a person, who knows or reasonably should know that an elder adult or disabled adult

lacks the capacity to consent”

In addition, the act makes the following changes: (1) amended G.S. 53B-4 (access to financial records) includes within its provisions a subpoena delivered to a financial institution by a county social services director or law enforcement agency investigating a credible report of financial exploitation of a disabled or older adult; (2) amended G.S. 108A-14 requires a county social services director to receive and evaluate reports of financial exploitation of disabled adults and to investigate credible reports of financial exploitation; (3) new Article 6A of G.S. Chapter 108A imposes a duty on a financial institution under certain circumstances to report information that a disabled or older adult is the victim or target of financial exploitation and authorizes a law enforcement agency or county social services department to obtain a subpoena directing a financial institution to provide financial records of a customer who is a disabled or older adult.

Effective: December 1, 2013

Session Law 2013-338
Senate Bill 200

Extend Time For Local Forensic Science Labs To Obtain Accreditation

This act amends the effective date of sections 7 and 8 of S.L. 2011-19 to effectively delay for local forensic science laboratories until July 1, 2016, the requirement that a forensic analysis under G.S. 8-58.20 and a chemical analysis of blood or urine under G.S. 20-139.1(c2) must be accredited by a specified accrediting body.

Effective: July 23, 2013

Session Law 2013-348
Senate Bill 659

Amendments to Impaired Driving and Open Container Laws to Conform with Federal Funding Requirements

Background: Federal law requires that a portion of federal highway funds that would otherwise be apportioned to a state be reserved from a state that has not enacted both a repeat intoxicated driver law and an open container law. 23 U.S.C. Sections 154(c)(2); 164(b)(2). Such laws must require, among other consequences, that an individual convicted of a second or subsequent offense for driving while impaired install an ignition interlock system on each motor vehicle he or she owns or operates. They also must require that a person convicted of a second impaired driving offense be required to perform at least 30 days of community service or be imprisoned for at least five days. A person convicted of a third or subsequent impaired driving offense must be required to perform at least sixty days of community service, or to serve at least ten days of imprisonment. Open container laws must prohibit the possession of any open alcoholic beverage container or the consumption of any alcoholic beverage in the passenger area of any motor vehicle (as that term is defined by federal law). This act amends several provisions of Chapter 20 of the North Carolina General Statutes to satisfy these minimum requirements.

Ignition interlock: The act amends G.S. 20-17.8 (restoration of a license after certain driving while impaired convictions; ignition interlock) in subsection (c1) to provide that the Commissioner of Motor Vehicles must not issue a license to a person subject to the statute until presented with proof of the installation of an ignition interlock system in all registered vehicles owned by the person. Formerly, a person was not required to install an ignition interlock on a vehicle he or she owned if DMV determined that another member of the person’s family relied on the vehicle and the vehicle was not in the possession of the person subject to the ignition interlock requirement. This exception applied, for

example, when the college-age child of a parent convicted of impaired driving and subject to ignition interlock drove a vehicle owned by the parent while residing in a different location from the parent. Amendments to G.S. 20-17.8(c1) require that DMV determine a waiver of the ignition interlock requirement under the family-member exception on a case-by-case basis following an assessment of financial hardship to the person subject to the restriction.

Amendments also require the Commissioner to cancel the driver's license of a person subject to the statute if he or she registers a motor vehicle he or she owns without an installed ignition interlock system or removes a system from a motor vehicle he or she owns, other than when changing ignition interlock providers or selling the vehicle. The act deletes the last sentence of G.S. 20-17.8(f), which required a court, upon finding that the aforementioned family-member exception to ignition interlock applied, to find the person not guilty of driving while license revoked for violating the conditions under G.S. 20-17.8(c1). It also amends G.S. 20-17.8(l) to provide that the medical exception to ignition interlock applies only to people required to have ignition interlock based on an alcohol concentration of 0.15 or more and not to people required to have ignition interlock because of a prior conviction or an Aggravated Level One impaired driving sentence.

Punishment: The act amends G.S. 20-179(h) (level two punishment for various DWI convictions) to provide that if the defendant is subject to level two punishment based on grossly aggravating factors in G.S. 20-179(c)(1) (prior conviction) or (c)(2) (driving while license revoked), the prior DWI conviction occurred within five years before the date of the offense for which the defendant is being sentenced, and the judge suspends all active terms of imprisonment and imposes abstention from alcohol as verified by a continuous alcohol monitoring system, then the judge must also impose as a special probation condition that the defendant must complete 240 hours of community service.

Community service parole: The act amends G.S. 15A-1371(h) to provide that prisoners serving sentences for impaired driving are eligible for community service parole after serving the minimum sentence required by G.S. 20-179. Requirement (4) in setting out community service parole eligibility is amended so it reads that the prisoner has served one-half of his minimum sentence, at least 10 days if sentenced to Level One punishment or at least seven days if sentenced to Level Two punishment.

Definition of "motor vehicle" in transporting open container of alcoholic beverages: The act revises the definition of "motor vehicle" for the offense of transporting an open container of alcoholic beverages (G.S. 20-138.7) so it means any vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways and includes mopeds. The current definition includes only those motor vehicles that North Carolina law requires to be registered, whether the motor vehicle is registered in North Carolina or another jurisdiction.

Effective: October 1, 2013

Session Law 2013-360 **Senate Bill 402**

Appropriations Act

This Act addresses several financial, legal, and organizational matters for law enforcement, the court system, and corrections. Portions of significant interest include:

Volunteer School Safety Resource Officer Program

Section 8.45 creates new G.S. 162-26 and G.S. 160A-288.4 authorizing sheriffs and chiefs of police, respectively, to establish a volunteer school safety resource officer program to provide nonsalaried special deputies or law enforcement officers to serve in public schools. A volunteer must have prior experience as either (i) a sworn law enforcement officer, or (ii) a military police officer with a minimum of two years' service. The statutes specify training requirements. The volunteer has the power of arrest while performing official duties. Amended G.S. 14-269.2(g) exempts the volunteer from the prohibition

in the section against possessing specified weapons on a campus or other educational property.

Effective: December 1, 2013

North Carolina State Crime Laboratory.

Section 17.6 transfers the NC State Crime Laboratory and the DNA Database and Databank from the State Bureau of Investigation for relocation elsewhere within the Department of Justice, as determined by the Attorney General. Section 17.6 amends G.S. 132-1.4(b)(1), which defines “records of criminal investigations” in the public records law, to include within the definition any records, worksheets, reports, or analyses prepared or conducted by the state crime laboratory at the request of any public law enforcement agency in connection with a criminal investigation.

Effective: July 1, 2013

General Punishment Changes for Class 3 Misdemeanors

Section 18B.13 amends G.S. 15A-1340.23 to revise the misdemeanor sentencing Prior Conviction Levels for Level II from “1-15 days C/I” to “1-15 days C if one to three prior convictions” and “1-15 days C/I if four prior convictions.” It also provides that unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine.

Effective: December 1, 2013

Offenses Reclassified to Class 3 Misdemeanors or Infractions

Sections 18B.14 and 18B.15 reclassified certain Class 1 and Class 2 misdemeanors to Class 3 misdemeanors, and certain misdemeanors to infractions. The reclassified Class 3 misdemeanors and infractions are listed below.

Class 1 and 2 Misdemeanors Reclassified to Class 3

G.S. 14-106 (obtaining property for worthless check)

G.S. 14-107(d)(1) (simple worthless check)

G.S. 14-167 (failure to return hired property)

G.S. 14-168.1 (conversion by bailee, lessee, etc.)

G.S. 14-168.4(a) (failure to return rental property)

G.S. 20-28(a) (driving while license revoked) except it remains a Class 1 misdemeanor if the driver’s license was originally revoked for an impaired driving revocation)

G.S. 20-35(a1) (failure to obtain driver’s license before driving motor vehicle, 20-7(a))

G.S. 20-35(a1) (failure to comply with driver’s license restrictions, 20-7(e))

G.S. 20-35(a1) (permitting person’s motor vehicle to be operated by unlicensed person, 20-34)

G.S. 20-111(1) (driving vehicle on highway, or knowingly permit person’s vehicle to be driven on highway, when vehicle is not registered with DMV or does not display current registration plate)

G.S. 20-111(2) (display, possess, etc., registration card, title certificate, or registration plate knowing it to be fictitious or to have been canceled, revoked, etc., or willfully display expired license or registration plate on vehicle knowing it to be expired)

G.S. 20-127(d)(1) (applying tinting to vehicle’s window that does not meet window tinting restrictions)

G.S. 20-127(d)(2) (driving a vehicle on a highway or public vehicular area that has window not meeting window tinting restrictions)

G.S. 20-141(j1) (speeding either more than 15 m.p.h. or more than speed limit or over 80 m.p.h.)

G.S. 20-313(a) (registered motor vehicle owner operating or permitting vehicle to be operated without insurance)

Misdemeanors Reclassified to Infractions

G.S. 75A-6.1(c) (violation of rule governing navigational lighting adopted by Wildlife Resources Commission)

G.S. 75A-13.1 (violations concerning skin and scuba divers)

G.S. 75A-13.3(c3) (vessel livery that fails to provide basic safety instruction)

G.S. 75A-17(f) (no-wake speed violation)

G.S. 75A-18(a) (violation of Article 1, G.S. Ch. 75A, except as otherwise provided)

Effective: December 1, 2013

Session Law 2013-366

Senate Bill 353

Increased Penalties for Unsafe Movements Affecting Motorcyclists

Amended G.S. 20-154 (unsafe movement) provides that a person violating subsection (a) that results in a crash causing property damage in excess of \$5,000 or serious bodily injury to a motorcycle operator or passenger commits an infraction and must be assessed a fine not less than \$750. The violation is treated as a failure to yield the right-of-way to a motorcycle for assessing points under G.S. 20-16(c). A judge may also order a driver's license suspension for not more than 30 days, with the option of granting a limited driving privilege.

Effective: October 1, 2013

Session Law 2013-368

Senate Bill 683

Human Trafficking and Prostitution

Human trafficking and related offenses. The act amends G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), and G.S. 14-43.13 (sexual servitude) to (i) provide an alternative mental element to "knowingly" in proving these offenses by showing the defendant acted "in reckless disregard of the consequences," and (ii) provide that mistake of age or consent of the minor is not a defense.

Prostitution. The act repeals G.S. 14-190.18 (promoting prostitution of minor), G.S. 14-190.19 (participating in prostitution of minor), G.S. 14-204.1 (loitering for purpose of engaging in prostitution), G.S. 14-205 (venue for prostitution prosecution), G.S. 14-207 (degrees of guilt of prostitution), and G.S. 14-208 (punishment for prostitution offenses).

Amended G.S. 14-203 adds several new and revised definitions, including: "prostitution" and "advance prostitution." "Prostitution" is defined as the performance of, offer of, or agreement to perform vaginal intercourse, any sexual act or sexual contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification for any money or other consideration. "Advance prostitution" means either (i) soliciting a prostitute by performing any of the following acts when acting as other than a prostitute or patron of a prostitute: soliciting another for the purpose of prostitution, arranging or offering to arrange a meeting for the purpose of prostitution, directing another to a place for the purpose of prostitution, or using the internet, including social media, to solicit another for prostitution; or (ii) keeping a place of prostitution and performing any of the following acts when acting as other than a prostitute or a patron of a prostitute: knowingly permitting the use of the place for prostitution, granting the use of the place under circumstances from which a person should reasonably know the place is to be used for prostitution, or

permitting the continued use of the place after becoming aware of facts or circumstances from which the person should know the place is being used for prostitution.

Amended G.S. 14-204 provides that prostitution is a Class 1 misdemeanor, authorizes conditional discharge for a first offender, and provides immunity for a minor (a person under 18), who instead must be treated as an undisciplined juvenile as set out in the statute.

New G.S. 14-205.1 makes solicitation of prostitution a Class 1 misdemeanor for a first offense, a Class H felony for a second or subsequent offense, a Class G felony for a person 18 or older who willfully solicits a minor, and a Class E felony for a person who willfully solicits a person who is severely or profoundly mentally disabled.

The act adds new G.S. 14-205.2, patronizing a prostitute. This offense occurs when a person willfully performs any of the following acts with a person who is not his or her spouse: engages in vaginal intercourse, or any sexual act or contact as defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification with a prostitute; or enters or remains in a place of prostitution with intent to engage in vaginal intercourse, or any sexual act or contact defined in G.S. 14-27.1, for the purpose of sexual arousal or gratification. Violation for a first offense is Class A1 misdemeanor and a second or subsequent offense is a Class G felony, unless the defendant is 18 years old or older and the prostitute is a minor in which case the offense is a Class F felony or, the prostitute is a severely or profoundly mentally disabled person in which case the offense is a Class D felony.

The act also creates new G.S. 14-205.3. Subsection (a), promoting prostitution, occurs when any person willfully performs any of the following acts: advances prostitution; profits from prostitution by compelling a person to become a prostitute, receiving a portion of the earnings from a prostitute, or by any other means. Subsection (b), promoting prostitution of a minor or mentally disabled person, occurs if a person performs any of the following acts: advances prostitution where a minor or severely or profoundly mentally disabled person engaged in prostitution, or any person engaged in prostitution and in that place was such a person; profits from prostitution where the prostitute is a minor or severely or profoundly mentally disabled person; confines a minor or severely or profoundly mentally disabled person against the person's will by the infliction or imminent threat of great bodily harm, permanent disability, or disfigurement, or by administering any alcoholic intoxicant or controlled substances and compels the minor or disabled person to engage in prostitution, arranges for the minor or disabled person to practice prostitution, or profits from prostitution by the minor or disabled person. A violation of subsection (a) is a Class F felony unless the defendant has a prior conviction for a violation of this section or G.S. 14-204 (prostitution), G.S. 14-204.1 (solicitation of prostitution), or 14-204.2 (patronizing a prostitute), in which case the offense is a Class E felony. Violation of subsection (b) is a Class D felony unless the minor or disabled person was confined as described in the statute in which case the offense is a Class C felony. If the defendant has a prior conviction for a violation of this section or G.S. 14-204 (prostitution), G.S. 14-204.1 (solicitation of prostitution), or 14-204.2 (patronizing a prostitute), the offense becomes a Class C felony.

Electronic surveillance. Amended G.S. 15A-290(c) (offenses for which electronic surveillance is authorized) adds the offenses of G.S. 14-43.11 (human trafficking), 14-43.12 (involuntary servitude), 14-43.13 (sexual servitude), 14-205.2(c) and (d) (patronizing prostitute who is minor or mentally disabled person), and 14-205.3(b) (promoting prostitution of minor or mentally disabled person).

Definition of "abused juveniles." Amended G.S. 7B-101(1) adds the following offenses to the definition of "abused juveniles": G.S. 14-205.3(b) (promoting prostitution of minor or mentally disabled person), G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), and G.S. 14-43.13 (sexual servitude).

Sex offender registration law amendment. Amended G.S. 14-208.6(5) adds the following offenses to the definition of “sexually violent offense” in the sex offender registration law: G.S. 14-205.2(c) and (d) (patronizing prostitute who is minor or mentally disabled person), and G.S. 205.3(b) (promoting prostitution of minor or mentally disabled person).

Investigative grand jury. Amended G.S. 15A-622 authorizes an investigative grand jury for the offenses of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), G.S. 14-43.13 (sexual servitude).

New Structured Sentencing Act aggravating factors. The act adds the following Structured Sentencing Act aggravating factors to G.S. 15A-1340.16(d): (1) the offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and involved multiple victims, and (2) the offense is a violation of the same statutes and the victim suffered serious injury as a result of the offense.

Effective: October 1, 2013

Session Law 2013-369
House Bill 937

Firearm Laws

This act makes the following changes to various firearm laws:

Armed habitual felon. New Article 3D of Chapter 14 (G.S. 14-7.35 through 14-7.41) creates the status of armed habitual felon that occurs if a defendant has been convicted (including guilty and no contest pleas) of a firearm-related felony offense in any court in the United States. A “firearm-related felony” is defined as a felony committed in which the person used or displayed a firearm while committing a felony. If a defendant is convicted of a second firearm-related felony that was committed after the conviction of the first firearm-related felony, and is found to be an armed habitual felon, then the defendant is punished for the second firearm-related felony as a Class C felon with a minimum sentence of not less than 120 months imprisonment. The procedures for charging and trying the principal (second) felony and the status of armed habitual felon are similar to the current law concerning habitual felon. (Note: Some statutes in Article 3D contain terms that are inconsistent with the definition of “firearm-related felony” and thus they should be treated as surplusage and disregarded. The term “threatened” use or display of a firearm appears in G.S. 14-7.36, the term “threatening” the use or display of a firearm appears in G.S. 14-7.40(b), and the term “deadly weapon” appears in G.S. 14-7.40(b). All of these terms are inconsistent with the definition of “firearm-related felony” and the legislative intent to focus on a felony in which the person used or displayed a firearm while committing a felony.)

Enhanced sentence for using firearm or deadly weapon. Amended G.S. 15A-1340.16A (enhanced sentence when defendant used, displayed, etc., firearm or deadly weapon) is broadened to include all felonies instead of just Class A through E felonies. If the felony conviction is for a Class A through E felony, the minimum term of imprisonment must be increased by 72 months (current law, 60 months), if a Class F or G felony, increased by 36 months, if a Class H or I felony, increased by 12 months.

Expanded places where concealed carry permit holders may possess handguns. A new subsection (a2) is added to G.S. 14-269 (carrying concealed weapon) to allow a person with a concealed handgun permit, reciprocity for out-of-state permit, or a law enforcement federal exemption recognized under G.S. 14-415.25, to possess a handgun if it is in a closed compartment or container in the person’s locked vehicle

that is in a parking lot owned or leased by State government. New subsection (i) is added to G.S. 14-269.2 (weapons on educational property) to allow a person with a concealed handgun permit or who is exempt from needing a permit, if he or she is an employee of a UNC institution or community college, or private college that has not prohibited possession of a handgun under this provision, to possess a handgun in the employee's detached single-family residence on the campus or in a closed compartment or container in the person's locked vehicle that is in a parking lot of the institution where the employee is employed and resides (also allows a person without a permit to possess a handgun in the employee's residence or vehicle under limited circumstances). New subsection (j) is also added to G.S. 14-269.2(j) (weapons on educational property) to allow possession of a handgun by an employee of a public or nonpublic school under similar circumstances as in G.S. 14-269.2(i). New subsection (k) is added to G.S. 14-269.2 (weapons on educational property) to allow a person with a permit or a person exempt from needing a permit to have a handgun in a closed compartment or container within the person's locked vehicle or in a locked container securely affixed to the person's vehicle. G.S. 14-269.3 (carrying weapon into assemblies and establishments where alcoholic beverages are sold and consumed) is amended to exempt from its prohibitions a person with concealed handgun permit, reciprocity for out-of-state permit, or a law enforcement federal exemption recognized under G.S. 14-415.25, but not if the possessor or controller of the premises posts a conspicuous notice prohibiting a concealed handgun. Amended G.S. 14-269.4 (6) (exemption from prohibition of weapons in courthouse and certain state property) adds a person with a law enforcement federal exemption recognized under G.S. 14-415.25 who has a firearm in a closed compartment or container in the person's locked vehicle or in a locked container securely affixed to the person's vehicle. Amended G.S. 14-277.2 (weapons at parades prohibited) exempts a person with a concealed handgun permit, reciprocity for out-of-state permit, or a law enforcement federal exemption recognized under G.S. 14-415.25, unless a person possessing or controlling the premises prohibits carrying a concealed handgun.

Prohibiting child under 12 from possessing dangerous firearm. Amended G.S. 14-316 (unlawful for child under 12 to possess dangerous firearm except with parent or guardian's permission) applies the statute's prohibition to any person (not just a parent, guardian, etc.) and prohibits "access to" as well as possession of a firearm; permits access to or possession with the permission of the child's parent or guardian.

Limitation on local ordinances prohibiting carrying concealed weapon. Amended G.S. 14-415.23 deletes a local government's authority to prohibit the legal carrying of concealed handguns on playgrounds, greenways, and biking or walking paths, and clarifies the extent of its authority to prohibit them at certain recreational facilities such as athletic fields and swimming pools.

Mental commitment and other weapon bars. Amended G.S. 122C-54(d1) requires the clerk of superior court to cause a record of various determinations or findings to be transmitted to the National Instant Criminal Background Check System (NICS) within 48 hours (excluding weekends or holidays) after receiving notice of them: specified involuntary commitments, not guilty of by reason of insanity, incompetent to proceed to trial, etc. Amended G.S. 122C-54.1 (restoration process to remove mental commitment bar) makes various changes, including the standard that the petitioner must prove: he or she will not be likely to act in a manner dangerous to public safety and the granting of relief would not be contrary to the public interest.

Permits issued by sheriff and other related matters. Amended G.S. 14-415.17 makes confidential and not a public record under G.S. 132-1 the list of concealed handgun permit holders and the information collected by the sheriff to process an application. This information is available to local enforcement agencies on request, and the State Bureau of Investigation must make the information available to officers and clerks of court on a statewide system. Amended G.S. 14-415.18 requires the sheriff to revoke

a concealed handgun permit of a permittee who is adjudicated guilty of or receives a PJC for a crime that would have disqualified the permittee from initially receiving a permit. Amended G.S. 14-406 makes dealer records confidential and not a public record, but they must be made available on request of law enforcement agencies. Amended G.S. 14-404 requires a sheriff to keep a list of all permit denials with the specific reasons for the denials. The list may not include information that would identify the denied applicant; the list is a public record. The sheriff must notify the applicant of the approval or denial of a permit within 14 days (current law, 30 days) of the date of the permit application. The sheriff must revoke a pistol permit upon the occurrence of an event or condition or the applicant's inability to meet a requirement after the issuance of a permit that would have originally have resulted in the denial of a permit. Effective July 1, 2014, new G.S. 14-404(c1) provides that judicial findings, court orders, or other factual matters relevant to any disqualifying conditions for a pistol permit in G.S. 14-404(c) must be reported to the National Instant Criminal Background Check System (NICS) by the clerk of superior court within 48 hours (excluding weekends or holidays) after receipt of a copy of a judicial determination or finding. Amended G.S. 14-405, provides that pistol permit records maintained by the sheriff are confidential and not public records under G.S. 132-1, but must be made available on request of law enforcement agencies.

Carrying concealed firearms by court officials. Amended G.S. 14-269(b) exempts from the offense of carrying a concealed weapon judges, magistrates, court clerks, and registers of deeds who have a concealed handgun permit as long as they don't have alcohol or unlawful controlled substances in their bodies; the weapon must be secured in a locked compartment when it is not on the official's person. Amended G.S. 14-415.27 adds judges, magistrates, and elected court clerks and registers of deeds to the provision allowing prosecutors and their investigators with concealed handgun permits to carry concealed handguns in the areas listed in G.S. 14-415.11(c).

Punishment increased for certain concealed handgun permit offenses. Amended G.S. 14-415.21 increases from a Class 2 misdemeanor to a Class 1 misdemeanor a violation of the concealed handgun permit prohibitions in G.S. 14-415.22(c)(8) (on private premises where notice that carrying handgun is prohibited) and (c2) (while consuming alcohol or unlawful controlled substances).

Taking wildlife with firearm with silencer. Amended G.S. 113-291.1(c) deletes the Class 1 misdemeanor for taking wildlife with a firearm equipped with a silencer.

Effective: October 1, 2013 (unless otherwise noted in summary)

Session Law 2013-370
Senate Bill 18

Increased Punishment for Locksmith License Offense

Amended G.S. 74F-3 (prohibiting performance of locksmith services without a license) increases the punishment for a violation from a Class 3 to a Class 1 misdemeanor, and provides that a second or subsequent offense is a Class I felony.

Effective: December 1, 2013

Session Law 2013-377
Senate Bill 626

Authority to Enter Motor Vehicle to Save Animal

New G.S. 14-363.3 provides that an animal control officer, animal cruelty investigator, law enforcement officer, firefighter, or rescue squad worker who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal due to endangering conditions such as heat, cold, etc., may enter the motor vehicle by any reasonable means after making a reasonable effort to locate the owner or other person responsible for the animal. This statute does not apply to the transportation of horses, cattle, sheep, swine, poultry, or other livestock.

Effective: July 29, 2013

Session Law 2013-379
House Bill 675

Maximum Time Period to Dispense Schedule II Substance With Written Prescription

This act amends G.S. 90-106(d) to provide that a Schedule II controlled substance may not be dispensed pursuant to a written prescription more than six months after the date it was prescribed.

Effective: October 1, 2013

Session Law 2013-385
Senate Bill 182

Reclassification of Certain Misdemeanors to Infractions; Appeals to Superior Court

Offenses Reclassified to Infractions

G.S. 20-35 was amended to reclassify the following misdemeanors to infractions:

- Failure to carry a valid license while driving a motor vehicle in violation of G.S. 20-7(a)
- Operating motor vehicle with expired license in violation of G.S. 20-7(f)
- Failure to notify DMV of address change for a license in violation of G.S. 20-7.1

G.S. 20-176 was amended to reclassify the following misdemeanors to infractions:

- Failing to carry registration card in vehicle in violation of G.S. 20-57(c)
- Failing to sign registration card in violation of G.S. 20-57(c)
- Failing to notify DMV of address change for vehicle registration card in violation of G.S. 20-67

G.S. 113-135(a) was also amended to make fishing without a license under G.S. 113-174.1(a) and G.S. 113-270.1B(a) an infraction rather than a misdemeanor.

This act amends G.S. 15A-1115 to prohibit an appeal to superior court for anyone found responsible for an infraction in district court. The act also amends G.S. 15A-1347 to provide that if a defendant waives a revocation hearing, any finding of a probation violation, activation of sentence, or imposition of special probation may not be appealed to superior court.

Effective: December 1, 2013

Session Law 2013-389
Senate Bill 368

Felony Escape From Local Jail; Pistol Permit Fees

This act amends G.S. 14-256 to expand the Class H felony offense of escape from a local confinement facility to include a person charged with a felony who has been committed to the facility pending trial.

Effective: December 1, 2013

Amended G.S. 14-404(e) provides that the sheriff must charge on receipt of an application for a pistol permit a fee of \$5 for each permit requested. The fee under the prior statute applied on issuing the permit and did not specify that the fee was for each permit.

Effective: August 1, 2013

Session Law 2013-392
Senate Bill 470

Consumption of Beer/Unfortified Wine Prohibited on Premises When Permit Suspended or Revoked

This act adds subsection (a1) to G.S. 18B-300 to prohibit (with a limited exception) the consumption of beer or unfortified wine on the premises of a business during the period of time that an on-premises permit issued to the business authorizing the sale and consumption of beer or unfortified wine has been suspended or revoked by the ABC commission.

Effective: December 1, 2013

Session Law 2013-410
House Bill 92

Definitions of ATV and Utility Vehicle

This act revises the following two definitions in G.S. 20-4.01 as follows: “All-terrain vehicle or ATV” is a motorized vehicle 50 inches or less in width that is designed to travel on three or more low-pressure tires and manufactured for off-highway use, but it does not include a golf cart, utility vehicle, or a riding lawn mower; “Utility vehicle” is a motor vehicle that is designed for off-road use, and used for general maintenance, security, agricultural, or horticultural purposes, but it does not include an all-terrain vehicle, golf cart, or riding lawn mower.

Effective: August 23, 2013

Session Law 2013-415
House Bill 15

Agencies Added to Statutes Allowing Use of Red or Blue Lights and Providing Limited Exceptions for Speed Limits and Right-of-Way Rules

This act amends G.S. 20-125(b), which requires law enforcement vehicles to be equipped with lights, sirens or horns approved by DMV, by: (1) making the subsection apply to vehicles owned or operated by the specified agencies (previously, owned and operated), (2) adding vehicles belonging to the Division of Parks and Recreation and the North Carolina Forest Service, and (3) adding firefighting and other emergency response by the vehicle to the list of purposes for which the vehicles must be used. The act also amends G.S. 20-130.1 (use of red or blue lights) by adding vehicles of the following agencies to the list of entities that are allowed to use red or blue lights under specified circumstances: Division of Marine Fisheries, Division of Parks and Recreation, North Carolina Forest Service, and official members or Teams of REACT International, Inc. Amends G.S. 20-145 (when speed limit not applicable) by adding

the vehicles of the following agencies under specified circumstances: Division of Parks and Recreation and North Carolina Forest Service. Amends G.S. 20-156(b) (driver to yield right-of-way to law enforcement, fire department, and other vehicles using warning signal by light and siren) and G.S. 20-157(a) (driver of vehicle must move to right on approach of law enforcement, fire department, and other vehicles using warning signal by light and siren) by adding vehicles of the following agencies under specified circumstances: Division of Marine Fisheries, Division of Parks and Recreation, and North Carolina Forest Service.

Effective: October 1, 2013

The majority of the summaries provided above were excerpted from 2013 Legislation Affecting Criminal Law and Procedure by Robert Farb (September 2013).