

North Carolina Sheriffs' Association

2017 Legislative Update Training



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**North Carolina Sheriffs' Association
Legislative Update Training – 2017
Agenda**

- 8:30 a.m. – 9:00 a.m. Registration
- 9:00 a.m. – 9:15 a.m. Welcome and Announcements Eddie Caldwell
- 9:15 a.m. – 10:30 a.m. State Budget Bill Eddie Caldwell
- State Budget Bill & Criminal Law & Procedure..... Matthew Boyatt
- 10:30 a.m. – 10:45 a.m. Break
- 10:45 a.m. – 12:15 p.m. Criminal Law & Procedure Matthew Boyatt
- 12:15 p.m. – 1:00 p.m. Lunch
- 1:00 p.m. – 2:30 p.m. Criminal Law & Procedure and Motor Vehicle Law John Aldridge
- 2:30 p.m. – 2:45 p.m. Break
- 2:45 p.m. – 3:45 p.m. Retirement Benefits Eddie Caldwell
- 3:45 p.m. Adjourn

North Carolina Sheriffs' Association

www.ncsheriffs.org

Law Enforcement Membership



Please enter your name and address information in the spaces provided and mail to:
North Carolina Sheriffs' Association
Post Office Box 20049
Raleigh, North Carolina 27619

You may now join online by visiting our website at www.ncsheriffs.org and clicking on the Honorary Membership button.

First Name: _____ MI _____
Last Name: _____
Mailing Address: _____
Mailing Address (con't): _____
City: _____
County of Residence: _____
State: _____
Zip Code: _____
Email Address: _____
Employing Agency: _____
Sworn Officer: _____ YES _____ NO

This membership entitles you to the following:

- Law Enforcement Membership Card
- Law Enforcement Window Decal for your car or home
- Law Enforcement Bumper Sticker for your car
- Annual Stick-on Calendar
- Subscription to **The North Carolina Sheriff** Newsletter

NOTE: The Law Enforcement Membership Category is only available to North Carolina Sheriff's Office (Sworn and Civilian) personnel and to sworn law enforcement officers of other law enforcement agencies.

_____ Membership\$25.00
_____ Law Enforcement Auto Tag\$10.00
_____ Auto Tag Frame\$10.00
_____ Additional Contribution
_____ Total

Please mail this form with your Check or Money Order made payable to:

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Post Office Box 20049
Raleigh, North Carolina 27619

North Carolina Sheriffs' Association Legislative Update Instructors

John J. Aldridge, III

John Aldridge is Assistant General Counsel to the North Carolina Sheriffs' Association. He is retired from the North Carolina Department of Justice. At the time of his retirement, John was the Special Deputy Attorney General in charge of the Law Enforcement Liaison Section. There, in addition to rendering daily advice to law enforcement agencies across the State, he represented the law enforcement certification commissions of North Carolina; the State Bureau of Investigation; the State Crime Laboratory; and the Alcoholic Beverage Control Commission.

John received a Bachelor of Science degree in Business Administration from East Carolina University in 1980 and a Juris Doctor from Campbell University School of Law in 1983.

Following completion of law school, John was accepted into the United States Air Force Judge Advocate General's Corps where he served as a criminal prosecutor and advisor to the Air Force Office of Special Investigations. Following his active duty tour, John served in the Judge Advocate General's Corps of the Air Force Reserves for 21 years. He retired from the United States Air Force on August 31, 2008, at the rank of Colonel. John was awarded the Legion of Merit for his work in support of Operation Iraqi Freedom and Operation Enduring Freedom.

Following his active duty tour with the United States Air Force, John was an instructor/coordinator at the North Carolina Justice Academy where he spoke on such topics as the law of arrest, search and seizure, firearms, and domestic violence. John is also certified as a Specialized Law Enforcement Firearms Instructor. He also received North Carolina's highest award for public service, the Order of the Long Leaf Pine in 2013.

John has authored several publications on various aspects of North Carolina's Firearms Laws, Domestic Violence Laws, and North Carolina's Sex Offender Registry Program.



North Carolina Sheriffs' Association Legislative Update Instructors

Matthew L. Boyatt

Matthew L. Boyatt is the Associate General Counsel to the North Carolina Sheriffs' Association. Matthew earned an Associate of Arts degree in Criminal Justice in Miami, Florida, before coming to North Carolina in 1995. He then attended the University of North Carolina at Chapel Hill where he earned a Bachelor of Arts Degree in History in 1997 and a Juris Doctor in 2003. Matthew is admitted to practice law in our State trial and appellate courts, and is also admitted in several United States District Courts and the Fourth Circuit Court of Appeals.

Following law school, Matthew practiced as an Assistant District Attorney in Guilford County for several years where he prosecuted criminal cases in both district and superior court for Stuart Albright and Doug Henderson. At the time he left the Guilford County District Attorney's Office, Matthew was the district court supervising attorney and was responsible for the day-to-day operations of the district court attorneys practicing in the 18th Prosecutorial District.

Matthew then entered private practice in 2006 and served as General Counsel to the Housing Authority of the City of Raleigh and to Saint Augustine's College in Raleigh. While in private practice, Matthew also engaged in medical malpractice and personal injury litigation, and insurance defense for North Carolina Mutual Insurance Company.

In 2011, Matthew began service as an Assistant Attorney General in the Law Enforcement Liaison Section of the Attorney General's Office, where he practiced for 5 years before transitioning to the North Carolina Sheriffs' Association. While at the Attorney General's Office, Matthew served as General Counsel to the North Carolina Sheriffs' Education and Training Standards Commission and to the North Carolina Forensic Science Advisory Board. He also defended civil litigation cases on behalf of State personnel in State and federal court, and also represented the State in numerous criminal appeals before the North Carolina Court of Appeals.



North Carolina Sheriffs' Association Legislative Update Instructors

Eddie Caldwell

Eddie Caldwell is the Executive Vice President and General Counsel of the North Carolina Sheriffs' Association.

Prior to joining the staff of the North Carolina Sheriffs' Association, he was a partner in the Raleigh law firm of Hafer & Caldwell, P.A. representing the North Carolina Sheriffs' Association and numerous other professional associations.

Previously, he served as the Special Deputy Attorney General for the Law Enforcement Liaison Section of the North Carolina Department of Justice where he provided legal advice and technical assistance to law enforcement officers, agencies and associations across North Carolina, and prior to that he was a legal instructor at the North Carolina Justice Academy.

He has also served as Legal Counsel to the Speaker of the House of Representatives in the North Carolina General Assembly.

Eddie graduated from Campbell University School of Law with a Juris Doctor and received a Bachelor of Science degree in Administration of Criminal Justice/Political Science from The University of North Carolina at Chapel Hill.

He is also a Carrboro, North Carolina police officer, a certified criminal justice instructor, author of the "From Badge to Bench" column in the NCLEOA Journal, and serves as Vice-Chairman of the North Carolina Criminal Justice Education and Training Standards Commission.



2017 LEGISLATIVE UPDATE

Title:	2017 North Carolina Sheriffs' Association Legislative Update
Purpose:	The purpose of this block of instruction is to provide the student with information on recent legislative changes that were enacted during the 2017 session of the North Carolina General Assembly.
Training Objectives:	<p>At the end of this block of instruction, the student will be able to achieve the following objectives in accordance with information received during the instructional period:</p> <ol style="list-style-type: none">1. Discuss provisions of the 2017 State budget bill that apply to the criminal justice system and law enforcement in North Carolina.2. Discuss issues in motor vehicle law as well as in criminal law and procedure that have been impacted by the 2017 legislative session.
Hours:	Five (5)
Method:	Lecture/Discussion
Environment:	Academic classroom
Materials Required:	<i>Final Legislative Report 2017</i> Power Point Presentation
Training Aids:	Computer/LCD Projector Screen PowerPoint Presentation
Prepared by:	<p>John J. Aldridge, III Assistant General Counsel North Carolina Sheriffs' Association</p> <p>Matthew L. Boyatt Associate General Counsel North Carolina Sheriffs' Association</p> <p>Edmond W. Caldwell, Jr. Executive Vice President and General Counsel North Carolina Sheriffs' Association</p>
Date Prepared:	October 2017

Legislative Update 2017



North Carolina Sheriffs' Association

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WELCOME

Eddie Caldwell

**Executive Vice President and General Counsel
North Carolina Sheriffs' Association**

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Instructors

- John Aldridge, Assistant General Counsel
North Carolina Sheriffs' Association
- Matthew Boyatt, Associate General Counsel
North Carolina Sheriffs' Association
- Eddie Caldwell,
Executive Vice President and General Counsel
North Carolina Sheriffs' Association



Administrative Support and Logistics

- Melissa Mull – Business Operations Coordinator
North Carolina Sheriffs' Association
- Garry Fife – Senior SMCP Coordinator
North Carolina Sheriffs' Association



Thanks to Our Partners!

- Governor's Highway Safety Program
Mark M. Ezzell, Director
- North Carolina Department of Justice
Josh Stein, Attorney General
- North Carolina Justice Academy
Trevor Allen, Director



Announcements

- Coffee and Water
- Breaks
- Lunch
- Restrooms
- Other Announcements



Please turn off telephones and computers.



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What if there is an emergency?



If there is an emergency,
step out of the room....please!

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Registration

Please complete entire registration card, including your Social Security Number.

Course Title: Legislative Update

No Course Number Needed

REGISTRATION	A. Name _____ Last First Middle (No Nicknames)
	B. Social Security number _____ Date of Birth _____
	C. Agency _____
	D. Agency Mailing Address _____ City _____ State _____ Zip _____ County _____ Phone no. () _____ Job Title _____
	E. Course Title _____ Course No. _____
	F. Course Date _____ Agency Type <input type="checkbox"/> County <input type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> City
	G. Email Address _____

Please fill out all the blanks on this form and check your answers for accuracy. Failure to provide the information requested may result in the inability of our registrar to provide you with a complete training transcript.

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Training Credit

- Mandatory In-Service Training – **NO**
- Professional Certificate Programs – **YES**



Partial Credit Forms

Partial Credit Certification Form

Please complete all of the following information.

Name: _____ Job Title: _____

Agency: _____

Course Title: _____

Date: _____ Location: _____

Certification

By signing below, I certify that I attended the following:

_____ hours of credit

NOTE: Please round the hours attended down to the nearest quarter hour.

Signature

Please fill out all the blanks on this form and check your answers for accuracy. Failure to provide the information requested may result in the inability of our registrar to provide you with a complete training transcript.



North Carolina Sheriffs' Association Law Enforcement Honorary Membership

**North Carolina
Sheriffs' Association**
www.ncsheriffs.org

**Law
Enforcement
Membership** ★

Please enter your name and address information in the spaces provided and mail with your Check or Money Order made payable to:
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 Post Office Box 20049
 Raleigh, North Carolina 27619

You may now join online by visiting our website at www.ncsheriffs.org and clicking on the Honorary Membership button. You may also fill out your credit card information on the reverse side of this sheet and mail to the above address.

First Name: _____ MI _____
 Last Name: _____
 Mailing Address: _____
 Mailing Address (con't): _____
 City: _____
 County of Residence: _____
 State: _____
 Zip Code: _____
 Email Address: _____
 Employing Agency: _____
 Sworn Officer: _____ YES _____ NO

This membership entitles you to the following:

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- Law Enforcement Window Decal for your car or home
- Law Enforcement Bumper Sticker for your car
- Annual Stick-on Calendar
- Subscription to *The North Carolina Sheriff* Newsletter

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_____ Membership\$25.00
 _____ Law Enforcement Auto Tag\$10.00
 _____ Auto Tag Frame\$10.00
 _____ Additional Contribution
 _____ Total




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Evaluation

- Please be sure to fill out the Evaluation Form provided with your training materials and turn it in at the end of class.



**2017 Legislative Update Training
Evaluation**

Training Location (check one):
 Catawba County
 Duplin County
 Haywood County
 Martin County
 Wake County
 Wroughtwite Beach (NCAPA)

Feedback on Instructors	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
State Budget Bill and Retirement <i>Presented by Eddie Caldwell</i>					
Information presented to relevant to officers in my agency					
Information presented was clear and understandable					
Instructor's presentation style kept my attention					
Criminal Law and Procedure <i>Presented by Matthew Boyatt</i>					
Information presented to relevant to officers in my agency					
Information presented was clear and understandable					
Instructor's presentation style kept my attention					
Criminal Law and Procedure and Motor Vehicle Law <i>Presented by John Alford</i>					
Information presented to relevant to officers in my agency					
Information presented was clear and understandable					
Instructor's presentation style kept my attention					

PLEASE INDICATE BY CHECKMARK (✓) YOUR OPINION ON THE FOLLOWING STATEMENTS:

Feedback on Logistics	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The training facility was easy to locate.					
The training facility was appropriate (room size, temperature, and cleanliness).					
There was enough food for me at lunch.					

OVER

PLEASE INDICATE BY CHECKMARK (✓) YOUR OPINION ON THE FOLLOWING STATEMENTS:

Feedback on Training	Yes	No
I attended the 2016 Legislative Update Training class.		
The handout materials assisted me during class today.		
I will personally use the handout materials when I return to work.		
I will personally use the information I learned today when I return to work.		
I will train other trainers on this material and they will teach the Legislative Update to other personnel.		
How many personnel will be trained in total by yourself or by another trainer?		
I will distribute copies of the materials to other personnel, but will not be training other personnel.		
How many personnel do you expect to provide copies of the materials with that will not actually receive training?		

1. What was especially good about this training class?

2. What should we change to improve this training class?

3. How did you hear about the 2017 Legislative Update Training class?
 Sheriffs' Association Email: _____
 Division of Criminal Information (DCI): _____
 Justice Academy Blackboard: _____
 Others: _____
4. Additional Comments:

Thank you for your feedback! When completed, please turn in this form at the registration table.



Copies of Bills

- General Assembly's website: www.ncleg.net
(Type H or S and the bill number)



- For further assistance contact the General Assembly at (919) 733-5648.



Finding General Statutes

- www.ncleg.net
- Click on General Statutes link under SHORTCUTS.
- Type in statute number or go to contents page.

North Carolina General Assembly website screenshot showing the "NC General Statutes" page. The page includes a search bar, navigation menu, and various links. Red circles highlight the "NC General Statutes" title, the "Browse" section, the "Shortcuts" section, and the "Caveats" section.

NC General Statutes

NOTE: The Statutes on the North Carolina General Assembly website reflect changes made in the **2016 Regular Session**. The changes do not include the 4th Special Session held in December 2016. The changes from all Sessions are listed in the NC Statutes and Session Laws affected by ratified bills documents.

Browse

NC Statutes Table of Contents

- NC Statutes and Session Laws affected by ratified bills

Look-Up

enter chapter #

Example: 17D-4

Search ?

All Chapters

enter search criteria

Return Sections

Caveats

Not Official

While every effort was made to ensure the accuracy and completeness of the statutes available on the North Carolina General Assembly's web site, the North Carolina General Assembly will not be responsible for any errors or omissions which may occur in these files. Please notify NCGA Web Site Support if you find any irregularities in the statutes on this web site. NCGA Web Site Support will relay the information to appropriate staff members of the North Carolina General Assembly to investigate the irregularities.

If a statute indicates "(see Editor's note)" or "(see note)", the note can be viewed in the printed copy of the General Statutes in a library or courthouse setting or in the online statutes available through LexisNexis on a subscription basis.

Service

The North Carolina General Assembly offers access to the Statutes on the Internet as a service to the public. **The Webmanager is unable to assist users of this service with legal questions. Additionally, legislative**

NCGA Division Links

- Legislative Library
 - In the Spotlight
- Fiscal Research Division
- Legislative Drafting Division
- Program Evaluation Division
- Legislative Services Division
- Legislative Publications
- NCGA Career Opportunities

Shortcuts

- General Statutes
 - Table of Contents
- Session Laws
- House Standing Committees
- Senate Standing Committees
- Rules, Joint, and Study Committees
- Redistricting
- Votes on Bills
- NCGA Mobile Website
- Help

Helpful Links

- Legislative Calendar
- Staff Contact Info
- Homework Resources

North Carolina Sheriffs' Association

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Finding Court Cases

- Supreme Court of the United States

www.supremecourt.gov/

- Go to opinions

- Supreme Court of North Carolina
North Carolina Court of Appeals

<https://appellate.nccourts.org/opinions/>

- Select year
- Date of opinion
- Look for name



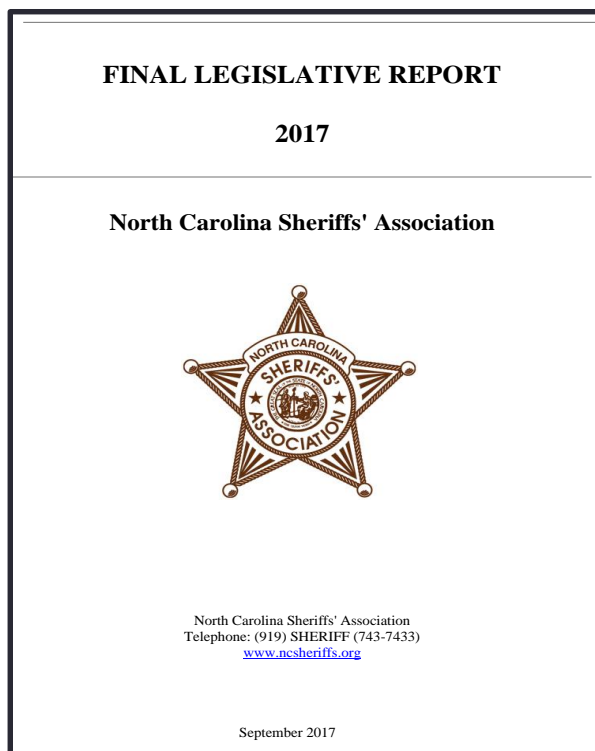
Course Outline

- I. Welcome and Announcements
- II. State Budget Bill
- III. Criminal Law and Procedure
- IV. Motor Vehicle Law
- V. Retirement Benefits
- VI. Adjourn



Appendix

- Appendix A – Final Legislative Report



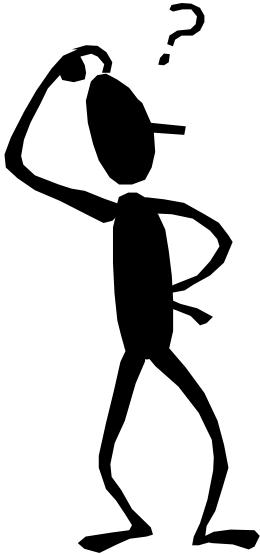
Training Materials

All 2017 Legislative Update Training materials can be found at:

<http://ncsheriffs.org/2017-legislative-update>



QUESTIONS?



2017 General Assembly

- During the 2017 Session of the General Assembly, 927 House Bills and 692 Senate Bills were introduced, for a total of 1,619 legislative bills available for consideration.
- 222 bills (14%) were enacted into law.
- Governor Roy Cooper:
 - Signed 144 bills;
 - Allowed 5 to become law without his signature; and
 - Vetoed 13 bills with 8 of the Governor's vetoes being overridden by the General Assembly.



STATE BUDGET BILL

Senate Bill 257

- Makes budgetary changes and numerous other changes to the laws of this State. Those items of interest to the criminal justice community include:



STATE BUDGET BILL (continued)

- \$10 million budget reduction to the North Carolina Department of Justice for the 2017-2019 fiscal biennium.
- It requires the Attorney General to decide where to make the budget cuts.



STATE BUDGET BILL (continued)

- Board of Governors (BOG) of The University of North Carolina is required to study the feasibility of establishing a pilot program for Basic Law Enforcement Training at Winston-Salem State University.
- BOG is required to report findings on costs and financial benefits of such a program to the Senate and House of Representatives no later than March 1, 2018.



STATE BUDGET BILL (continued)

- \$2.2 million is allocated to the Department of Public Safety to renovate the Swannanoa Correctional Center for Women to allow for portions of the facility to be used as a female Confinement in Response to Violation (CRV) facility.



STATE BUDGET BILL (continued)

- \$2.4 million, disbursed over two consecutive years, appropriated to the Department of Health and Human Services to improve the North Carolina Controlled Substances Reporting System (CSRS).
- CSRS is used by medical practitioners and pharmacists to identify individuals that misuse controlled substances and to avoid the overprescribing of controlled substances such as opioids.



STATE BUDGET BILL (continued)

- \$25,000 a year for each year of the 2017-2019 fiscal biennium is appropriated to the Department of Health and Human Services for use to buy opioid antagonists to be given at no charge to North Carolina law enforcement agencies.



STATE BUDGET BILL (continued)

- The Department of Public Safety will continue to pay the sum of \$40 per day as reimbursement to counties for the cost of housing backlogged convicted inmates who were sentenced to imprisonment in the Division of Adult Correction and Juvenile Justice (DACJJ) and who have been in a county jail awaiting transfer to DACJJ.



STATE BUDGET BILL (continued)

- In order to receive the \$40 per day reimbursement, two things need to happen:
 1. Must have a signed order of commitment to DACJJ from the court.
 2. Local jail must contact DACJJ and advise that the convicted inmate is ready for transfer to DACJJ.
- If DACJJ has no bedspace, then reimbursement must be given beginning the day after the sheriff gave notification that the inmate was ready for transfer.



STATE BUDGET BILL (continued)

- The Department of Public Safety, in collaboration with the Department of Health and Human Services, is required to study the feasibility of the State implementing a Health Information Exchange (HIE) program that will allow for the electronic transfer of inmate health information.
- The Departments must report their findings to the Joint Legislative Committees on Justice and Public Safety and Health and Human Services by February 1, 2018.



STATE BUDGET BILL (continued)

- DACJJ is required to report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for DACJJ employees:
 1. Number of employees charged with a criminal offense that occurred while they were working in a State Prison.
 2. Number of employees disciplined, demoted or separated due to misconduct.



DACJJ Reporting (continued)

State Budget Bill

3. Description of the screening process used to select and hire employees.
4. Average number of days between assignment of a correctional officer to duties and the completion of Correctional Officer Basic Training.
5. Methods used by DACJJ to prevent contraband from entering the prison system and an evaluation of how effective that process is.



DACJJ Reporting (continued)

State Budget Bill

- DACJJ report must include the requested data for the last five years.
- DACJJ Report is due no later than February 1, 2018.



STATE BUDGET BILL (continued)

- North Carolina Department of Justice is prohibited from hiring sworn personnel to fill vacant positions in the North Carolina State Crime Laboratory.
- Current employees of the State Crime Laboratory that have maintained their sworn status are allowed to continue their employment at the Laboratory.



STATE BUDGET BILL (continued)

- Amends G.S. 147-17 and G.S. 114-2.3.
- Prohibits State funds from being used to pay for the litigation services of private legal counsel for any State agency, institution, department, bureau, board or commission, unless specifically authorized by the General Assembly.



STATE BUDGET BILL (continued)

- Amends G.S. 90-113.75A.
- Expands the Prescription Drug Abuse Advisory Committee and renames the Committee as the Opioid and Prescription Drug Abuse Advisory Committee.
- Committee is tasked with developing and implementing a Statewide plan to address the problem of opioid and prescription drug addiction.



STATE BUDGET BILL (continued)

- The Department of Public Safety (DPS) and the City of Wilmington are required to create a pilot project Quick Response Team (QRT) to provide overdose treatment services.
- QRT will consist of law enforcement officers, firefighters and medics.
- DPS and City of Wilmington must report on the progress of this pilot project to the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2019.



STATE BUDGET BILL (continued)

- Funds previously appropriated to Department of Public Safety in 2015 for body-worn camera grants must now be used to provide “matching grants” to local and county law enforcement agencies to purchase and use body-worn or dashboard video cameras.
- Receiving law enforcement agency must match dollar for dollar the amount of the grant in order to qualify.



Body-Worn Camera Grants (continued)

State Budget Bill

- Must have in place appropriate policies and procedures for the use of dashboard or body-worn cameras, and for the proper storage of images.
- Grants administered by Governor's Crime Commission.
- A Grant must not exceed \$100,000.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- The State Capitol Police are authorized to contract with State agencies to provide security services in the buildings occupied by those agencies.

- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- The North Carolina Department of Justice and the North Carolina Department of Public Safety are prohibited from using federally forfeited assets for new personnel positions, new projects, acquisitions of real property and repair of buildings without having the prior approval of the General Assembly.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 14-34.6.
- Expands the Class I felony offense of assault or affray on a firefighter, emergency medical technician, medical responder or hospital personnel to also include hospital security personnel.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



STATE BUDGET BILL (continued)

- Enacts new G.S. 20-189.1.
- Creates the Lieutenant Governor Executive Protection Detail to protect the Lieutenant Governor and his family. The Commander of the State Highway Patrol is required to appoint to this Detail three State Highway Patrol troopers selected by the Lieutenant Governor.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Creates new G.S. 20-189.2.
- Requires the North Carolina State Highway Patrol, upon 48 hours' notice, to provide a security detail for the Speaker of the House of Representatives and the President Pro Tempore of the Senate while those persons are traveling within North Carolina on State business.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 143B-1407.
- Designates the North Carolina State Highway Patrol as an eligible Public Safety Answering Point (PSAP) for purposes of applying to the 911 Board for a grant.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Creates new G.S. 20-187.5.
- Authorizes the North Carolina Troopers Association to use all trademarks of the North Carolina State Highway Patrol.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 103-4.
- Makes September 11 a legal public holiday designated as “First Responders Day.”
- This designation does NOT entitle an employee to the day off.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 143B-919.
- Expands subject matter jurisdiction of the SBI to allow the SBI, upon request of either the Governor or Attorney General, to investigate human trafficking crimes and crimes involving nuclear, biological and chemical weapons of mass destruction.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 74E-6.
- Authorizes company police agencies to enter into mutual aid agreements with the governing board of a municipality to provide temporary law enforcement assistance.
- Company police can also enter into mutual aid agreements with the governing board of a county IF the sheriff consents.



Company Police Mutual Aid (continued)

State Budget Bill

- Company police officers are also authorized to provide “as needed” temporary assistance to a chief of police or to a sheriff without the need to enter into a mutual aid agreement.
- This “as needed” assistance must be requested by the head of a law enforcement agency, or their designee.
- Effective: June 28, 2017



TurningPoint Response Devices



- To use the device to answer questions push the number or letter corresponding to the correct answer.
- The questions and potential answers will be read by the instructor and then you will have 10 seconds to enter your answer.
- Push the button more than once to be sure it is received but only one answer will be accepted.
- The results will then be displayed.



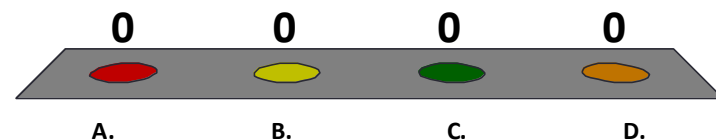
QUESTION:

Deputy Smith makes a traffic stop on a remote road. The five occupants of the suspect car get out of their car and proceed to surround Deputy Smith in his patrol car. Deputy Smith radios dispatch and requests assistance of any law enforcement officers in the area. The closest sworn law enforcement officer to Deputy Smith is a company police officer for a warehouse approximately ½ mile away. There is no mutual assistance agreement between the sheriff's office and the company police agency. Which of the following is a correct statement?



ANSWER

- A. The company police officer could not assist as a LEO because the company police officers are not authorized to enter into mutual assistance agreements with sheriff's offices;
- B. The company police officer could not assist as a LEO without having a mutual assistance agreement with the Sheriff's office;
- C. The company police officer could not assist as a LEO because the request has not come from the head of a law enforcement agency, or their designee;
- D. Both A. and C.



STATE BUDGET BILL (continued)

- Amends G.S. 143B-911.
 - Relocates the State Capitol Police, which was a section of the North Carolina State Highway Patrol, to be a Division of the Department of Public Safety.
 - Transfer of personnel to or from the State Capitol Police, or changes to its current authorized budget, is prohibited until after the transfer is completed.
- Effective: June 1, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 143B-928.
 - Prohibits the transfer of ALE positions or changes to its current authorized budget unless approved by the General Assembly.
 - Funds or property distributed to ALE as a result of any federal forfeiture are required to be used only for ALE purposes.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Modifies G.S. 14-202.13, G.S. 18B-1003, G.S. 19-8.4, and G.S. 131E-84.1.
- Requires hospital emergency departments, State rest areas, State welcome centers, adult “live entertainment” establishments, and adult bookstores to post in a conspicuous location a public awareness sign and hotline telephone number concerning human trafficking.

- Effective: June 28, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 7A-304(a).
- Digital Forensics Fees:
 - A court must order payment of \$600 in costs in all convictions where digital forensics was performed by the State Crime Laboratory (such as an analysis of a computer).
 - The \$600 must be provided to the Department of Justice for use by the State Crime Laboratory.



Digital Forensics Fees (continued)

State Budget Bill

- Where a digital forensics analysis was performed by a local government crime laboratory facility, the court must include in the court costs a payment of \$600.
- The court must find that the digital forensics performed by the local laboratory is equivalent to the digital forensics work performed by the North Carolina State Crime Laboratory.
- The \$600 fee must be used for local crime laboratory purposes.



Digital Forensic Fees (continued)

State Budget Bill

- Digital Forensics Expert Witness Fees:
 - A court must order payment of \$600 in costs in all convictions where a State or local crime laboratory expert witness provides testimony at trial relating to digital forensics analysis.
 - This expert witness fee is in addition to the \$600 digital forensics testing fee described above.
- Effective: July 1, 2017



STATE BUDGET BILL (continued)

- Amends G.S. 7A-304(a).
- Prohibits a court from waiving all or part of any court fines or costs unless the court gives notice and opportunity to be heard by all government entities directly affected by the court costs.
- 15 days notice required.
- Effective: December 1, 2017, and applies to all cases arising on or after that date.



STATE BUDGET BILL (continued)

- Amends G.S. 135-1 and G.S. 143-166.41(b).
- Makes probation or parole officers eligible for the law enforcement officer's special separation allowance.
- Does not entitle probation or parole officers to the 5% contribution into the Supplemental Retirement Income Plan.
- Effective: July 1, 2017, and applies to persons retiring on or after that date.



STATE BUDGET BILL (continued)

- Local law enforcement agencies are required to inventory their Sexual Assault Evidence Collection Kits (SAECKs), and report to the North Carolina State Crime Laboratory the total number of SAECKs in their custody or control.
- Local agencies must report total SAECKs that:
 1. Are associated with a case that has been resolved in court.



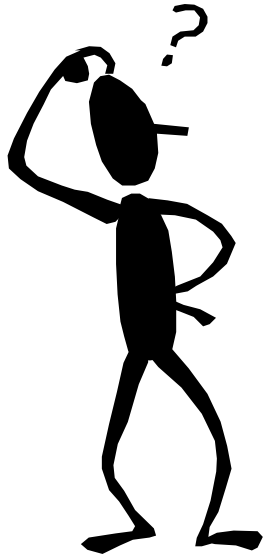
SAECKs (continued)

State Budget Bill

2. Were not submitted for testing by the agency because the suspect admitted to the sexual act.
 3. Were not submitted for testing because allegations were determined to be unfounded.
 4. Are not associated with an identifiable victim.
- Local reports are due no later than January 1, 2018.



QUESTIONS?



Eddie Caldwell

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CRIMINAL LAW AND PROCEDURE

Matthew Boyatt



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STATE BUDGET BILL (continued)

- Senate Bill 257 makes various changes to the juvenile justice system. Those items of interest to the criminal justice community include:



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Juvenile Justice State Budget Bill

- Amends G.S. 7B-1501.
- Includes 16 and 17-year-old offenders as juveniles for purposes of juvenile court jurisdiction. Therefore, the age at which an individual is treated as an adult criminal offender is raised to the age of 18, but there are some exceptions.
- Effective: December 1, 2019, and applies to offenses committed on or after that date.



Juvenile Justice (continued)

State Budget Bill

- The raising of the juvenile age does NOT apply to motor vehicle offenses.



- Juveniles charged with violating motor vehicle laws are subject to prosecution in district or superior court instead of juvenile court.



Juvenile Justice (continued)

State Budget Bill

- Amends G.S. 7B-1604.
- Any juvenile that has a prior misdemeanor or felony conviction, including a misdemeanor or felony motor vehicle offense, must be prosecuted as an adult for all subsequent offenses.



Juvenile Justice (continued)

State Budget Bill

- Creates new G.S. 7B-2200.5.
- Requires a 16 or 17-year-old, when probable cause has been found by the court to believe the juvenile committed a Class A, B1, B2, C, D, E, F or G felony, to be transferred to superior court to be tried as an adult.



Juvenile Justice (continued)

State Budget Bill

- New G.S. 7B-2200.5 also gives a court the discretion to transfer to superior court any 16 or 17-year-old charged with the commission of a Class H or I felony.
- Effective: December 1, 2019, and applies to offenses committed on or after that date.



Juvenile Justice (continued)

State Budget Bill

- Amends G.S. 14-316.1.
- A person must be 18 years of age to be guilty of contributing to the delinquency of a juvenile. Prior to this amendment, 16 and 17 year-old juveniles could be convicted of contributing to the delinquency of a juvenile.
- Effective: December 1, 2019, and applies to offenses committed on or after that date.



Juvenile Justice (continued)

State Budget Bill

- Amends G.S. 7B-2508.
- Court must impose a sentence that is one class higher than the class of offense the juvenile is charged with committing if a juvenile is adjudicated delinquent and the juvenile was involved in gang activity.
- Effective: December 1, 2019, and applies to offenses committed on or after that date.



Juvenile Justice (continued)

State Budget Bill

- Amends G.S. 7B-1702.
- Requires a juvenile court counselor to conduct a gang assessment when evaluating a juvenile to determine whether a delinquency petition should be filed.
- Effective: December 1, 2019, and applies to offenses committed on or after that date.



Juvenile Justice (continued)

State Budget Bill

- Amends G.S. 7B-3001.
- Requires a juvenile court counselor to share information in a juvenile's record with a law enforcement officer.



Juvenile Justice (continued)

State Budget Bill

- Requirements for the officer to obtain information from the juvenile court counselor about the juvenile's record:
 - The officer must be investigating an incident that could result in the filing of a juvenile delinquency complaint.
 - The officer must request the information.
 - The officer must be a North Carolina sworn law enforcement officer.



Juvenile Justice (continued)

State Budget Bill

- The juvenile court counselor must share:
 - Information related to the juvenile's delinquency record.
 - Information about any prior consultations that any law enforcement officer has had with any juvenile court counselor about the juvenile.



Juvenile Justice (continued)

State Budget Bill

- The law enforcement officer may not obtain a copy of any part of the juvenile's record.
- The information shared with the officer is not public record.
- Effective: October 1, 2017



STATE BUDGET BILL (continued)

- Establishes the Juvenile Jurisdiction Advisory Committee, which is comprised of various State and local officials, including one sheriff appointed by the Speaker of the House of Representatives and one chief of police appointed by the President Pro Tempore of the Senate.
- The Committee is required to develop a plan to address the costs associated with raising the juvenile jurisdiction age to 18.
- Effective: December 1, 2019



Juvenile Justice (continued)

State Budget Bill

- Amends G.S. 17E-4 and G.S. 17C-6.
- Authorizes the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission to develop education and training materials on juvenile justice issues such as detention, referral to diversionary programs and best practices for handling incidents involving juveniles.
- Effective: December 1, 2019



HOUSE BILL 362

Changes to the Juvenile Code

- Amends G.S. 7B-404.
- A magistrate is required to accept for filing juvenile petitions for nonsecure custody when the office of the clerk of court is closed.



HOUSE BILL 362 (continued)

Changes to the Juvenile Code

- The petition must allege a juvenile is neglected, abused or dependent, or
- The petition is necessary because an assessment into allegations of abuse, neglect, or dependency by the Director of the Department of Social Services has been interfered with.



HOUSE BILL 362 (continued)

Changes to the Juvenile Code

- Previously, a magistrate was permitted to “draw, verify and issue” a juvenile petition at the request of the director of the department of social services if the magistrate received authorization to do so by the Chief District Court Judge and the clerk’s office was closed.
- The phrase “draw, verify and issue” had unclear meaning and this bill was intended to clarify that a magistrate’s responsibilities are to verify a petition by administering an oath and by accepting the petition for filing.



HOUSE BILL 362 (continued)

Changes to the Juvenile Code

- The magistrate is required to deliver the petition to the clerk of court's office as soon as it is open for business.
- Effective: October 1, 2017



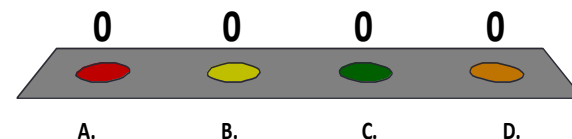
QUESTION:

Little Johnny Dillinger, age 16, is stopped by Deputy Smith for speeding 80 mph in a 55 mile-per-hour zone on January 1, 2020. Deputy Smith sees in plain view a baggie with less than a ½ ounce of marijuana in it. Dillinger is charged with speeding and misdemeanor possession of marijuana. Which of the following is a true statement?



ANSWER

- A. The speeding and possession charge must be heard in juvenile court;
- B. The district attorney has the discretion to try the speeding and possession charge in either juvenile court or adult district court;
- C. The possession charge would be heard in juvenile court and the speeding charge would be heard in adult district court;
- D. Both the marijuana and speeding charge would be tried together in adult district court.



SENATE BILL 53

Law Enforcement Stops/Custody of Child

- Amends G.S. 50-13.5.
- Establishes a process to enforce in-state temporary child custody orders that is uniform with the current procedures used to enforce out of state temporary child custody orders.

What does this mean?



SENATE BILL 53 (continued)

Law Enforcement Stops/Custody of Child

- Amended G.S. 50-13.5 requires a court, whenever it issues a temporary child custody order in North Carolina that requires a law enforcement officer to take physical custody of a minor child, to also issue a warrant to take physical custody of the minor child.
- The Administrative Office of the Courts has modified AOC-CV-667 in order to accommodate this change to the law.



SENATE BILL 53 (continued)

Law Enforcement Stops/Custody of Child

STATE OF NORTH CAROLINA		File No. _____
_____ County		In The General Court Of Justice District Court Division
Name And Address Of Plaintiff	VERSUS	WARRANT DIRECTING LAW ENFORCEMENT TO TAKE IMMEDIATE PHYSICAL CUSTODY OF CHILD(REN) SUBJECT TO A CHILD CUSTODY ORDER
Name And Address Of Defendant		
County And State, Or Country In Which Child Custody Order Entered	Date Child Custody Order Entered	G.S. 50-13.3, -13.5, 50A-308(c)
Name And Address Of Person(s) With Physical Custody Of Child, If Different Than Defendant		
FINDINGS OF FACT		
This matter coming on before the undersigned judge, the Court finds as follows:		
1. A child custody order was entered on (date) _____, in the county and state, or country of _____ in an action captioned _____		
2. The child custody order gives plaintiff the right to immediate physical custody of the following child(ren): (list each child by name and date of birth)		

<input type="checkbox"/> 3. Plaintiff filed a verified petition for expedited enforcement of a child custody order pursuant to G.S. 50A-308(a). A copy of that petition is attached and incorporated herein by reference.		
<input type="checkbox"/> 4. Plaintiff's verified petition requests that law enforcement officers immediately take physical custody of the child(ren) listed in paragraph 2 above.		
5. Based upon the sworn testimony of <input type="checkbox"/> plaintiff <input type="checkbox"/> (name of person(s) other than plaintiff offering sworn testimony)		
the court finds that the child(ren) is/are imminently likely to <input type="checkbox"/> suffer serious physical harm. <input type="checkbox"/> be removed from North Carolina. The Court bases this finding on the following facts:		

6. In addition, the Court finds:		

CONCLUSION OF LAW		
Therefore, the Court concludes as a matter of law as follows:		
<input type="checkbox"/> 1. Plaintiff is entitled to a warrant directing law enforcement to take immediate physical custody of the child(ren) listed below:		
<input type="checkbox"/> 2. The following additional relief is necessary to ensure the appearance of the child(ren) and the custodian of the child(ren) at the hearing scheduled to address plaintiff's child custody order:		

(Over)		
AOC-CV-507, Rev. 10/17, © 2017 Administrative Office of the Courts		



SENATE BILL 53 (continued)

Law Enforcement Stops/Custody of Child

ORDER	
It is therefore ordered as follows:	
1. _____ (name of law enforcement agency to take custody of child(ren)) is to take immediate physical custody of the following child(ren): (List each child by name and date of birth.) _____	
<input type="checkbox"/> 2. Officers may enter private property to take physical custody of the child(ren).	
<input type="checkbox"/> 3. The child(ren) shall be placed immediately in the physical custody of plaintiff <input type="checkbox"/> and plaintiff shall appear with the child(ren) at the time and place of hearing set forth in the <input type="checkbox"/> Notice of Hearing <input type="checkbox"/> Petition For Expedited Enforcement Of Foreign Child Custody Order.	
<input type="checkbox"/> 4. Law enforcement officers shall deliver physical custody of the child(ren) to the following person or organization for custody, pending hearing of the district court: _____ _____	
<input type="checkbox"/> 5. The following additional orders: _____ _____ _____	
Date	Signature Of District Court Judge
<p>NOTICE TO LAW ENFORCEMENT OFFICIALS: A Warrant Directing Law Enforcement To Take Immediate Physical Custody Of Child(ren) is enforceable throughout North Carolina, G.S. 50A-311. If this case involves the enforcement of a custody order from another state or country, the defendant must be served with this Warrant, the Petition For Expedited Enforcement Of Foreign Child Custody Order (AOC-CV-665), and the Order For Hearing On Petition For Expedited Enforcement Of Foreign Child Custody Order (AOC-CV-458), immediately after the child(ren) is/are taken into custody.</p>	
RETURN OF SERVICE	
I certify that I served the person(s) listed below with a copy of the Warrant Directing Law Enforcement To Take Immediate Physical Custody Of Child(ren) Subject To A Child Custody Order , <input type="checkbox"/> Order For Hearing On Petition For Expedited Enforcement Of Foreign Child Custody Order , <input type="checkbox"/> Petition For Expedited Enforcement Of Foreign Child Custody Order , as follows:	
DEFENDANT	
Date Served	Name Of Defendant
Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM
<input type="checkbox"/> By personally delivering the same to the defendant named above.	
<input type="checkbox"/> By leaving the same at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein. (name of person with whom papers were left) _____	
<input type="checkbox"/> The defendant was NOT served for the following reason: _____	
OTHER PERSON	
Date Served	Name Of Other Person
Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM
<input type="checkbox"/> By personally delivering the same to the person named above.	
<input type="checkbox"/> By leaving the same at the dwelling house or usual place of abode of the person named above with a person of suitable age and discretion then residing therein. (name of person with whom papers were left) _____	
<input type="checkbox"/> The person was NOT served for the following reason: _____	
<input type="checkbox"/> The child(ren) named above was/were taken into custody at _____ <input type="checkbox"/> AM <input type="checkbox"/> PM, on (date) _____ and released to (name and/or location) _____ at _____ <input type="checkbox"/> AM <input type="checkbox"/> PM, on (date) _____.	
Date Received	Name Of Sheriff (type or print)
Date Of Return	Signature Of Deputy Sheriff Making Return
	County Of Sheriff
AOC-CV-667, Side Two, Rev. 10/17, © 2017 Administrative Office of the Courts	



SENATE BILL 53 (continued)

Law Enforcement Stops/Custody of Child

- Amends G.S. 50-13.3.
- Makes a warrant to take physical custody of a child enforceable throughout the State.
- Effective: October 1, 2017, and applies to orders for temporary custody on or after that date.



SENATE BILL 344

Combine Adult Correction and Juvenile Justice

- Amends Article 13 of Chapter 143B of the General Statutes.
- Consolidates the Division of Adult Correction and the Division of Juvenile Justice into a single division within the Department of Public Safety.
- New name: Division of Adult Correction and Juvenile Justice (DACJJ).



SENATE BILL 344 (continued)

Combine Adult Correction and Juvenile Justice

- Amends G.S. 143B-800.
- Creates the Juvenile Justice Section within the new Division of Adult Correction and Juvenile Justice.
- Effective: July 25, 2017



HOUSE BILL 98

Crim. Offense/Vandalize Fire & EMS Equipment

- Creates new G.S. 14-160.3.
- It is a Class 1 misdemeanor to intentionally injure, destroy, remove, vandalize or interfere with the operation of any firefighting equipment, ambulance, or rescue squad emergency medical services vehicle or equipment.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 125

Threatened Weapon Inc. in First-Degree Rape

- Amends G.S. 14-27.21 and G.S. 14-27.26.
- Includes as an element in the offenses of first-degree forcible rape and first-degree forcible sex offense, respectively, the use, threatened use, or display of dangerous or deadly weapons in the commission of the crime.



HOUSE BILL 125 (continued)

Threatened Weapon Inc. in First-Degree Rape

- Currently, this element in these offenses only applies if the defendant employs or displays the weapon.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 138

Revise Gang Laws

- Makes numerous changes to the criminal laws governing illegal criminal gang activity. Those changes of interest to the criminal justice community are:



HOUSE BILL 138 (continued)

Revise Gang Laws

- Enacts new G.S. 14-50.16A.
- Defines “criminal gang” as:



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HOUSE BILL 138 (continued)

Revise Gang Laws

- Any ongoing organization, association, or group of three or more persons;
- That has as one of its primary activities the commission of criminal acts; and
- That shares a common name, identification, symbols, or other types of distinguishing characteristics.



HOUSE BILL 138 (continued)

Revise Gang Laws

- “Criminal gang member” is defined as a person that meets three or more of the following nine criteria:
 - Person admits to being a criminal gang member.
 - Person is identified as a criminal gang member by a reliable source.
 - Person has previously been involved in criminal gang activity.



HOUSE BILL 138 (continued)

Revise Gang Laws

- Person has adopted the display of colors or style of dress associated with a criminal gang.
- Person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
- Person is in possession of or is linked to a criminal gang by physical evidence such as photographs, rosters, membership documents, or electronic communications.



HOUSE BILL 138 (continued)

Revise Gang Laws

- Person has adopted language or terminology associated with a criminal gang.
- The person appears in social media to promote a criminal gang
- The person has tattoos or markings associated with a criminal gang.



HOUSE BILL 138 (continued)

Revise Gang Laws

- Enacts new G.S. 15A-1340.16E.
- Requires any felony conviction (except for Class A, B1 or B2 felonies) involving gang activity to be sentenced at one class felony higher than the principal felony.
- For a felony committed by a gang leader or gang organizer, the sentence must be two classes higher than the principal felony.



HOUSE BILL 138 (continued)

Revise Gang Laws

- Amends G.S. 14-50.22.
- Clarifies that a misdemeanor conviction involving gang activity must be sentenced one class higher than the principal misdemeanor.
- Class A1 misdemeanor becomes a Class I felony.



HOUSE BILL 138 (continued)

Revise Gang Laws

- Amends G.S. 14-50.19 and G.S. 14-50.20.
- Increases punishment from a Class H felony to a Class G felony for someone to threaten or deter a person who is assisting another to withdraw from a gang, or to retaliate against someone for withdrawing from a gang.



HOUSE BILL 138 (continued)

Revise Gang Laws

- It is a Class F felony to physically injure a person with the intent to deter them from assisting someone to withdraw from a gang, or to physically injure a person in retaliation for withdrawing from a gang.



HOUSE BILL 138 (continued)

Revise Gang Laws

- Amends G.S. 14-50.42.
- Evidence showing gang activity has occurred at any real property at least five times in a 12-month period is sufficient evidence to establish the presumption that the property owner, or renter of the property, knowingly permitted the criminal gang activity to continue.
- This evidence can be used in declaring the property a public nuisance.



HOUSE BILL 138 (continued)

Revise Gang Laws

- Owner or renter of a piece of real property can overcome the above-referenced presumption if the property owner or renter can show they have made a good faith effort to stop the criminal gang activity or to remove the criminal gang members from the property.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 224

Warrant Check of Inmates in Custody

- Modifies G.S. 15A-301.1(p).
- Requires a court, in all criminal cases where the defendant is in custody, to check for any outstanding warrants prior to entering any order of the court in the criminal case.



HOUSE BILL 224 (continued)

Warrant Check of Inmates in Custody

- This requirement previously applied to all defendants, not just to those in-custody.
- If there are any outstanding warrants, the court will notify the appropriate law enforcement agency of the location of that person.
- Effective: December 1, 2017, and applies to orders entered on or after that date.



HOUSE BILL 229

GSC Technical Corrections 2017

- Amends G.S. 14-208.6.
- Adds the crime of first-degree statutory rape (G.S. 14-27.24) to the list of offenses classified as a "sexually violent offense" for which a defendant must be placed on the sex offender registry.
- Effective: December 1, 2015



HOUSE BILL 229 (continued)

GSC Technical Corrections 2017

- The effective date of December 1, 2015 is not an error.
- Although this legislation was not enacted until 2017, this change in the law was made effective retroactive to December 1, 2015.



HOUSE BILL 229 (continued)

GSC Technical Corrections 2017

- Amends 90-96(a) and 90-96(a1).
 - Allows for a conditional discharge for a first offender charged with possession of “marijuana drug paraphernalia” under G.S. 90-113.22A.
 - Previously, a person charged with violating G.S. 90-113.22A would not qualify for conditional discharge under 90-96, although possession of other drug paraphernalia under G.S. 90-113.22 would qualify.
- Effective: July 12, 2017



HOUSE BILL 343

Enforcement of DVPO on Appeal

- Amends G.S. 50B-4.
- Makes a Domestic Violence Protective Order (“DVPO”) valid and enforceable while the DVPO is on appeal to the North Carolina Court of Appeals or the Supreme Court of North Carolina, unless one of these appellate courts enter an order stating that the DVPO cannot be enforced while the DVPO is being appealed.
- Effective: October 1, 2017



HOUSE BILL 384

Increase Penalties/Organized Retail Theft

- Amends G.S. 14-72.11.
- Expands the circumstances under which a person commits the Class H felony offense of “larceny from a merchant.”



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

- Under existing law, a person commits larceny from a merchant if they do any of the following: (1) take infant formula; (2) take property worth over \$200; (3) take merchandise by removing or destroying an antishoplifting device; or (4) affix a fraudulent product code (swapping tags) to take the property.



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

- Amended G.S. 14-72.11 includes the act of exchanging stolen property for something of value in the offense of larceny from a merchant.



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

- Amends G.S. 14-86.6.
- Makes it a Class G felony to conspire with another person to steal \$20,000 or more in retail property within a 90 day period, with the intent to sell the property, or
- To conspire with two or more people, while acting as an organizer or leader, with the purpose of selling or transferring stolen property.



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

- The bill makes numerous other changes to our currency converter laws.
- Amends G.S. 66-387.
- Includes “e-buyers” as currency converters.
- Defines an e-buyer as a currency converter that is engaged in the business of “purchasing gift cards or merchandise cards online.”



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

- Under current law, currency converters are also defined as a person engaged in the business of purchasing goods from the public for cash at a permanently located retail store.



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

- Amends G.S. 66-392.
- Requires e-buyers to maintain detailed records, in English, which include:
 1. A clear description of what was purchased.
 2. Name, address, and telephone number or email address of the seller.



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

3. The date of purchase, purchase price and value of the gift card or merchandise card.
4. The identification number or the internet protocol (IP) address of the seller, if available.



HOUSE BILL 384 (continued)

Increase Penalties/Organized Retail Theft

- A seller must also provide to the e-buyer a statement attesting that the property is not stolen and that it is not subject to any liens or other encumbrances.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 399

Stop Images Taken W/O Consent From Dissemination

- Amends G.S. 14-190.5A.
- Modifies the crime of “disclosures of private images.”



HOUSE BILL 399 (continued)

Stop Images Taken W/O Consent From Dissemination

- Currently, a person commits this crime if:
 - They disclose the image of another person's private parts (or of a person engaged in sexual activity);
 - The disclosure is without the person's consent;
 - It is for the purpose of humiliating or harassing a person, AND
 - Under circumstances in which the offender knows or should know the depicted person has a reasonable expectation of privacy.



HOUSE BILL 399 (continued)

Stop Images Taken W/O Consent From Dissemination

- The bill removes the element that the depicted person have a “reasonable expectation of privacy.”
- Reasonable expectation of privacy is defined as “when the depicted person has consented to the disclosure of an image within the context of a personal relationship and the depicted person reasonably believes that the disclosure will not go beyond the relationship.”



HOUSE BILL 399 (continued)

Stop Images Taken W/O Consent From Dissemination

- Removal of the “reasonable expectation of privacy” standard broadens the offense beyond images obtained “within the context of a personal relationship.”
- The reasonable expectation of privacy element has been replaced with a requirement that the victim “expected the images to remain private.”



HOUSE BILL 399 (continued)

Stop Images Taken W/O Consent From Dissemination

- An “image” is defined as a photograph, film, videotape, recording, live transmission, digital or computer-generated visual depiction, or any other reproduction that is made by electronic, mechanical, or other means.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 487

Nat. Guard Reemployment Rights

- Amends G.S. 127A-201.1 and G.S. 127A-202.
- The protections given to National Guard soldiers and airmen under this bill apply to circumstances where the soldiers and airmen are called into service by the Governor.
- These protections are in addition to rights given to all military members, including National Guard members, under federal law when military members are called into service by the President of the United States or his designee.



HOUSE BILL 487 (continued)

Nat. Guard Reemployment Rights

- Clarifies that an employer has an obligation to reemploy any National Guard member released from active duty after having been called into service by the governor of a state.
- Effective: July 21, 2017, and applies to active duty commencing on or after that date.



HOUSE BILL 487 (continued)

Nat. Guard Reemployment Rights

- Amends G.S. 42-45.
- Allows National Guard members to terminate a lease agreement for a dwelling unit upon 30 days written notice if: (1) the Guard member has a change in duty station; (2) is discharged or released from duty; or (3) is deployed for a period of 90 days or more.



HOUSE BILL 487 (continued)

Nat. Guard Reemployment Rights

- The law also allows a Guard member's family to terminate a lease agreement for a dwelling unit if the Guard member dies while on active duty.
- Effective: July 21, 2017, and applies to lease agreements entered into on or after that date.



SENATE BILL 55

School Bus Cameras/Civil Penalties

- Creates new G.S. 153A–246.
- Allows a county to adopt an ordinance authorizing the issuance of civil monetary penalties for the offense of passing a stopped school bus identified through the operation of automated school bus safety cameras.
- This does not eliminate the possibility of criminal prosecution.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- An automated school bus safety camera is a device that is affixed to a school bus that is synchronized to automatically record photographs or video of a vehicle passing a stopped school bus.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- This civil violation does not apply to any violation for passing a stopped school bus that results in injury or death.
- Cases involving injury or death will be resolved in criminal court exclusively.
- Citations are purely civil in nature; do not result in drivers license points or insurance points.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- Registered owner of a vehicle is responsible for a violation unless:
 - the vehicle was in the custody or control of another person;
 - or the citation was not received by the registered owner within 60 days after the date of the violation.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- The civil penalty for a first violation is \$400. The civil penalty for a second violation is \$750. A \$1000 penalty applies for each subsequent violation.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- If the person charged with a civil violation is charged with the criminal offense of passing a stopped school bus in violation of G.S. 20–217, the charging law enforcement officer is required to provide written notice to the county office where the offense took place.
- The county is required to issue a full refund of the civil penalty, along with interest.
- The county cannot impose a civil penalty against the person for the same criminal law violation that has been charged.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- The county has an obligation to provide each law enforcement agency in its jurisdiction with the name and address of the county official responsible for issuing civil penalties.
- This will allow law enforcement to notify county officials that they have criminally charged an individual with passing a school bus through the use of a school bus camera.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- Any video or photographs of motor vehicle violations must be provided to law enforcement as potential evidence for a criminal charge of passing a stopped school bus.



SENATE BILL 55 (continued)

School Bus Cameras/Civil Penalties

- Upon request, the county is required to provide records to the North Carolina Child Fatality Task Force and the North Carolina General Assembly.
- Effective: July 25, 2017



SENATE BILL 100

Aerial Adventure Financial Responsibility

- Enacts new Article 47 in Chapter 66 of the General Statutes.



SENATE BILL 100 (continued)

Aerial Adventure Financial Responsibility

- Enacts G.S. 66-451.
- Requires the owner or operator of any zip line or challenge course to obtain liability insurance in the amount of one million dollars per occurrence and two million dollars in the aggregate.
- Does this apply to every owner or operator?



SENATE BILL 100 (continued)

Aerial Adventure Financial Responsibility

- New G.S. 66-452 specifically exempts from this liability insurance requirement any zip line or challenge course operated at a private residence that is not open to the public.
- Zip lines or challenge courses operated by the State, city or county ARE also exempt.



SENATE BILL 100 (continued)

Aerial Adventure Financial Responsibility

- Therefore, zip lines and challenge courses operated for law enforcement training purposes are exempt from the liability insurance requirement.



- Effective: June 1, 2018



SENATE BILL 131

Regulatory Reform Act of 2016

- Bill makes numerous regulatory changes to various businesses and entities in North Carolina. Those changes of interest to the criminal justice community are:
- Amends G.S. 143-254.5 and G.S. 143B-289.52.



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- The North Carolina Wildlife Resources Commission and the North Carolina Division of Marine Fisheries must treat customer e-mail addresses and commission issued customer identification numbers as confidential information. These are NOT public record.



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- This adds to the list of existing confidential information, such as the following customer information:
 - date of birth
 - social security number
 - mailing address
 - residence address
 - telephone number
- Effective: October 1, 2017



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- Amends G.S. 132-6 and G.S. 132-6.1.
- Regarding the public records law, a public agency satisfies the requirement to provide access to public records and computer databases by making public records and computer databases available on-line in a format that allows a person to download the public record or computer database.



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- A public agency that provides access to public records on-line is not required to provide copies through any other method or medium.

- BUT.....



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- If a public agency maintains a computer database online and also maintains a nondigital copy of that database, the nondigital copy is subject to inspection upon a public records request.

- Effective:
July 1, 2017



SENATE BILL 582

Agency Technical Corrections

- The Attorney General may not delegate his duties to represent the State in criminal appeals to any district attorney's office or to any other entity.
- Effective: July 1, 2017



SENATE BILL 582 (continued)

Agency Technical Corrections

- A misdemeanor must be “charged” within two years of the commission of the offense.
- If a person is charged with any type of criminal process, such as an order for arrest or an arrest warrant, the statute of limitations will stop running.
- This change is intended to clarify when the statute of limitations stops running for purposes of misdemeanors.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



SENATE BILL 582 (continued)

Agency Technical Corrections

- A law enforcement officer is allowed to give expert witness testimony about the results of a Horizontal Gaze Nystagmus (HGN) Test the officer administered without being an expert in the “principles and methods” that form the basis of the HGN Test.



SENATE BILL 582 (continued)

Agency Technical Corrections

- In order to provide expert HGN Test testimony:
 - the HGN Test must be administered in accordance with the officer's training; and
 - the HGN Test testimony must be limited to whether the person was impaired.



SENATE BILL 582 (continued)

Agency Technical Corrections

- An officer is prohibited from providing HGN Test testimony relating to concentration levels of an impairing substance.
- This change in the law prevents the officer from having to be qualified by the court as an expert in the “principles and methods” that form the basis of the HGN Test.
- Effective: October 8, 2017



SENATE BILL 582 (continued)

Agency Technical Corrections

- Included in the list of Schedule IV controlled substances is 2-[(dimethylamino)methyl]-1-(3methoxyphenyl)cyclohexanol and its salts, optical and geometric isomers, and salts of these isomers (including Tramadol).
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 56

Amend Environmental Laws

- Makes numerous changes to North Carolina's environmental laws.
- Of interest to the criminal justice community, the law makes changes related to publicly owned riparian buffers along certain waterways throughout the State.



HOUSE BILL 56 (continued)

Amend Environmental Laws

- What is a riparian buffer?
 - This is a vegetated area bordering a body of water, such as a stream, lake or pond.



HOUSE BILL 56 (continued)

Amend Environmental Laws

- The law provides that if the head of a local law enforcement agency determines that a riparian buffer in their jurisdiction poses a risk to public safety, then the riparian buffer may be altered (such as by trimming vegetation).
- However, the head of the law enforcement agency must first obtain authorization to alter a riparian buffer from the Environmental Management Commission.



HOUSE BILL 56 (continued)

Amend Environmental Laws

- This law applies to the following areas:
 - The Neuse River Basin
 - The Tar-Pamlico River Basin
 - The Randleman Lake Watershed
 - The Jordan Lake Watershed
 - The Goose Creek Watershed
 - The Catawba River Basin

- Effective: October 4, 2017



QUESTIONS?



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CRIMINAL LAW AND PROCEDURE AND MOTOR VEHICLE LAW

John Aldridge



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SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- Amends G.S. 143-215.107A.
- Continues the requirement for motor vehicle emissions testing only in the following counties: Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, New Hanover, Onslow, Randolph, Rockingham, Rowan, Union and Wake.
- Deletes current requirement in 26 other counties.



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- Amends G.S. 20-183.2(b).
- Emissions testing requirements apply to vehicles that:
 1. Are a model year within 20 years of the current year, and older than the three most recent model years; or
 2. Are a model year within 20 years of the current year and the vehicle has 70,000 or more miles on the odometer.



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- These provisions concerning motor vehicle emissions are effective on the later of the following dates:
- October 1, 2017; or
- The first day of a month that is 60 days after the United States Environmental Protection Agency approves the changes in this emissions testing program.



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- Amends G.S. 14-419.
- Authorizes a law enforcement officer or animal control officer to kill a venomous reptile, large constricting snake or crocodylian without first consulting with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park if.....



SENATE BILL 131 (continued)

Regulatory Reform Act of 2016

- The officer determines there is an immediate risk to public safety.
- Effective: May 4, 2017



SENATE BILL 155

ABC Omnibus Legislation

- Enacts new G.S. 18B-1114.7.
- Allows the holder of a distillery permit to obtain a spirituous liquor special event permit that allows the distillery to give free tastings of its liquors at trade shows, conventions, balloon races, and similar events approved by the North Carolina Alcoholic Beverage Control Commission.
- Effective: June 30, 2017



SENATE BILL 155 (continued)

ABC Omnibus Legislation

- Enacts new G.S. 18B-1002.1.
- Allows an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission to obtain a permit to sell wine and certain spirituous liquors, such as antique spirituous liquors or decorative decanters of spirituous liquors, at auctions.
- Effective: October 1, 2017



SENATE BILL 155 (continued)

ABC Omnibus Legislation

- Amends G.S. 18B-1004.
- Allows establishments that sell alcoholic beverages for immediate consumption, such as restaurants, to sell alcoholic beverages beginning at 10:00 AM on Sunday if authorized by a city or county ordinance where the establishment is located.
- Effective: June 30, 2017



SENATE BILL 155 (continued)

ABC Omnibus Legislation

- Amends G.S. 18B-1105.
- Allows distillers to sell up to five bottles of spirituous liquor (previously one bottle) to a consumer in a 12 month period.
- Effective: July 1, 2017



SENATE BILL 155 (continued)

ABC Omnibus Legislation

- Enacts G.S. 18B-1121.
- Allows any agent or employee of a commercial permittee (such as a commercial distillery or brewery) to sample free of charge the alcoholic beverages it is licensed to sell for purposes of quality control, sensory analysis or educational purposes.
- Effective: June 30, 2017



SENATE BILL 155 (continued)

ABC Omnibus Legislation

- Amends 18B-1104.
- Allows a farm to obtain a special brewery permit to allow the farm brewery to manufacture and sell malt beverages that are made from its agricultural products, such as barley and hops.
- The malt beverages may be sold on-premises and can be consumed either on or off-premises.
- Effective: June 30, 2017



SENATE BILL 155 (continued)

ABC Omnibus Legislation

- Amends G.S. 18B-1104.
- Allows the holder of a brewery permit to give its products to customers, visitors and employees for consumption on premises.
- Previously, breweries could give its products for consumption on premises only to employees and guests.



SENATE BILL 155 (continued)

ABC Omnibus Legislation

- Amends G.S. 18B-1104 to also allow the holder of a brewery permit to sell any other alcoholic beverages (in addition to malt beverages) that are approved by the North Carolina Alcoholic Beverage Control Commission.

- Effective: June 30, 2017



SENATE BILL 384

Criminal Law Changes

- Amends G.S. 14-7.1.
- A habitual felon is a person who has been convicted of or pled guilty to three felony offenses.
- A "felony offense" for purposes of determining if a person is a habitual felon includes:



SENATE BILL 384 (continued)

Criminal Law Changes

- An offense that is a felony in North Carolina.
- Any felony conviction in another state that is substantially similar to a felony offense in North Carolina.
- A conviction in another state that carries a punishment of more than one year in prison for a crime that is substantially similar to a felony offense in North Carolina.



SENATE BILL 384 (continued)

Criminal Law Changes

- Any felony conviction under federal law. [Does not include certain federal felonies involving “intoxicating liquors.”]
- Effective: December 1, 2017, and applies to any offense committed on or after that date and that is the principal felony offense for a charge of being a habitual felon.



SENATE BILL 384 (continued)

Criminal Law Changes

- G.S. 14-7.25 is amended.
- The offense of habitual breaking and entering is committed if a person commits a breaking or entering offense with the intent to terrorize or injure an occupant of the building.
- The bill does not define the term "terrorize."
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



SENATE BILL 384 (continued)

Criminal Law Changes

- Amends G.S. 15A-502.
- A court is required to order a defendant to be fingerprinted when a person is charged with an offense that requires fingerprinting, but the defendant was not arrested for the crime.



SENATE BILL 384 (continued)

Criminal Law Changes

- The court is required to order the defendant to submit to fingerprinting by the sheriff or other appropriate law enforcement agency at the earliest practical opportunity.
- The court is able to hold the defendant in contempt of court for failing to comply with an order to submit to fingerprinting.
- Effective: December 1, 2017



SENATE BILL 384 (continued)

Criminal Law Changes

- G.S. 15A-304 is amended.
- A judicial official is required to issue a criminal summons charging an individual with a criminal offense instead of a warrant for arrest if the probable cause to support the criminal charge is based solely upon the affidavit of a person who is not a sworn law enforcement officer.



SENATE BILL 384 (continued)

Criminal Law Changes

- However, a judicial official could issue a warrant for arrest based on the affidavit of a person who is not a sworn law enforcement officer if:
 1. There is corroborating testimony from a sworn law enforcement officer or at least one disinterested witness;



SENATE BILL 384 (continued)

Criminal Law Changes

2. An investigation of the alleged offense by a law enforcement agency would constitute a substantial burden for the complainant; or
 3. Certain factors exist in the case, such as the defendant poses an imminent danger to the public or the defendant has a history of failing to appear before the court.
- Effective: December 1, 2017, and applies to warrants issued on or after that date.



SENATE BILL 410

Marine Aquaculture Development Act

- Enacts new Article 16A of Chapter 113.
- Requires the Division of Marine Fisheries of the Department of Environmental Quality to set standards for marine aquaculture.
- New G.S. 113-215 defines marine aquaculture as the propagation and rearing of marine aquatic species in controlled or selected environments, such as the operation of marine hatcheries and fish farming.



SENATE BILL 410 (continued)

- Enacts G.S. 113-217.
- Makes it a Class 1 misdemeanor for any aquaculture business to provide false information to the Division of Marine Fisheries, such as falsifying the amount of a harvest.



SENATE BILL 410 (continued)

- Enacts G.S. 113-218.
- Anyone who unlawfully takes marine species from an aquaculture business without the permission of the owner of the business is guilty of a Class A1 misdemeanor, and may be fined up to \$5,000.
- Effective: October 1, 2017



SENATE BILL 548

Strengthen Human Trafficking Laws

- Amends G.S. 14-43.11.
- Increases penalty for the human trafficking of an adult to a Class C felony (previously a Class F felony). If the victim is a minor, the law increases the penalty to a Class B1 felony (previously a Class C felony).
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



SENATE BILL 548 (continued)

Strengthen Human Trafficking Laws

- Amends G.S. 14-202.11.
- Prohibits the practice of massage and bodywork therapy in any “adult establishment.” An adult establishment is currently defined in G.S. 14-202.10 to include adult bookstores, adult motion picture theatres, and adult “live” entertainment businesses.
- Effective: October 1, 2017



SENATE BILL 548 (continued)

Strengthen Human Trafficking Laws

- Amends G.S. 90-634.
- Class 1 misdemeanor for any person, association, partnership, or corporation to employ a person to perform massage or bodywork therapy, such as soft tissue massage, that is not licensed by the North Carolina Board of Massage and Bodywork Therapy.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 21

Driver Instruction/Law Enforcement Stops

- Amends G.S. 20-88.1(d).
- The Division of Motor Vehicles (DMV) must include in the drivers license handbook a description of law enforcement procedures during traffic stops and the actions that a motorist should take during a traffic stop.



HOUSE BILL 21 (continued)

Driver Instruction/Law Enforcement Stops

- DMV must consult with the North Carolina Sheriffs' Association, the State Highway Patrol and the North Carolina Association of Chiefs of Police.
- Following this consultation, DMV is required to revise the drivers license handbook to include the proper actions a motorist should take during a traffic stop and a description of law enforcement procedures during traffic stops.



HOUSE BILL 21 (continued)

Driver Instruction/Law Enforcement Stops

- The Department of Public Instruction is required to instruct on this topic in the driver education curriculum.
- This curriculum is offered at public high schools in this State and must include this new topic beginning with the 2017-2018 school year.
- Effective: January 1, 2018, the DMV must include this new information in the drivers license handbook.



HOUSE BILL 27

Clarify Expiration of Vehicle Registration

- Amends G.S. 20-66(g)(1).
- Clarifies that a motor vehicle's registration that is renewed by the issuance of a new registration plate will remain valid through midnight of the last day of the year in which the new registration plate was issued.
- A grace period allows the vehicle to be operated through midnight February 15th of the next year.
- Effective: July 12, 2017



HOUSE BILL 84

DL/Deaf or Hard of Hearing Designation

- Modifies G.S. 20-7.
- Requires the DMV to develop a designation to be placed on drivers licenses to indicate a driver is hearing impaired, if the driver requests it.
- DMV must consult with the Department of Public Safety, the State Highway Patrol and the Division of Services for the Deaf and Hard of Hearing.



HOUSE BILL 84 (continued)

DL/Deaf or Hard of Hearing Designation

- If requested by a driver, the DMV will enter the drivers license designation into the electronic record of any motor vehicle registered to the hearing impaired driver.
- Driver can also request the designation be removed.
- The information is only available to law enforcement.



HOUSE BILL 84 (continued)

DL/Deaf or Hard of Hearing Designation

- G.S. 17E-4(a) and G.S. 17C-6(a) are modified.
- The North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission, respectively, are authorized to establish standards for law enforcement officers concerning recognizing and interacting with persons who are deaf or hard of hearing.
- Effective: January 1, 2018



HOUSE BILL 95

Truck Deliveries to Port/Night Travel

- Amends G.S. 20-199.
- Authorizes the Department of Transportation to issue special permits to allow oversized or overweight vehicles to transport cargo, containers and other equipment after sunset when transporting to or from international ports.
- Effective: July 12, 2017



HOUSE BILL 128

Prohibit Drone Use Over Prison/Jail

- Creates new G.S. 15A–300.3.
- Regulates the use of unmanned aircraft systems (UASs) near local, State, and federal confinement facilities.



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- No person or entity, including any State agency, is able to use a UAS within either a horizontal distance of 500 feet, or a vertical distance of 250 feet, from any local, State or federal confinement facility.



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- These restrictions do not apply to:
 - Operating a UAS with written consent from the official in charge of the confinement facility.
 - Law enforcement officers while discharging their official duties.
 - An emergency management agency, emergency medical services personnel, firefighters and law enforcement officers, when using a UAS in response to an emergency.



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- These restrictions also do not apply to a public utility or commercial entity, as long as:
 - The UAS is not within 150 feet from any confinement facility;
 - The entity notifies the official in charge of the facility 24 hours prior to operating the UAS;



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- The entity uses the UAS to inspect public utility or provider transmission lines, equipment, or any other purpose related to the business;
- The entity complies with all Federal Aviation Administration (FAA) regulations; and
- The person operating the UAS does not physically enter the prohibited space of the confinement facility without an escort from the facility.



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- Any person who delivers, or attempts to deliver, a weapon to a local, State, or federal confinement facility using a UAS is guilty of a Class H felony.
- Any person who uses a UAS to deliver, or attempt to deliver, contraband to a local, State or federal confinement facility is guilty of a Class I felony.



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- Contraband includes controlled substances, cigarettes, alcohol, and communication devices, but not weapons.



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- Any other person who flies a UAS in violation of these standards is guilty of a Class 1 misdemeanor.
- A law enforcement agency is authorized, but not mandated, to seize a UAS and any attached property, weapons, or contraband.



HOUSE BILL 128 (continued)

Prohibit Drone Use Over Prison/Jail

- A seized UAS is subject to the same forfeiture and disposition guidelines for property seized pursuant to an alcoholic beverage control law violation under G.S. 18B–504.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 337

Unmanned Aircraft Systems Law Revisions

- G.S. 15A-300.1 is amended.
- An emergency management agency is allowed to operate a UAS for functions related to emergency management, such as area reconnaissance, search and rescue, damage assessment and hazard risk management.

RECON
OBSERVATION DRONE



HOUSE BILL 337 (continued)

Unmanned Aircraft Systems Law Revisions

- G.S. 15A-300.1(d) is repealed, effective December 1, 2017.
- Removes restrictions on the use of imaging technology (such as infrared imaging) on UASs.
- Currently imaging technology is limited to scientific and farming operations.
- The imaging technology can now be used for other reasons, such as law enforcement activities.



HOUSE BILL 337 (continued)

Unmanned Aircraft Systems Law Revisions

- G.S. 63-96 is amended.
- Adopts the standards for the issuance of commercial drone operator permits established by the Federal Aviation Administration (FAA).
- The permitting and testing requirements for drones do not apply to drones used solely for hobby or recreational purposes.
- Effective: June 29, 2017



HOUSE BILL 225

Property Taken Not Preclude Attempted Robbery

- Amends G.S. 14-87.
- Makes attempted robbery with a dangerous weapon a lesser included offense of robbery with a dangerous weapon.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 225

Property Taken Not Preclude Attempted Robbery

- This change is the result of *State v. McCoy*, which was decided by the North Carolina Court of Appeals in 2010. In this case, the Court held that attempted robbery with a dangerous weapon was NOT a lesser included offense of robbery with a dangerous weapon.
- The statutory change in this bill clarifies that evidence that is sufficient to prove robbery with a dangerous weapon is also sufficient to support a conviction of attempted robbery with a dangerous weapon.



HOUSE BILL 243

Strengthen Opioid Misuse Prevention (STOP) Act

- Amends G.S. 90–12.7.
- A medical practitioner may give any governmental or nongovernmental organization a "standing order" for opioid antagonists.
- Members of the organizations can administer the opioid antagonists to individuals suspected of an opioid overdose.



HOUSE BILL 243 (continued)

Strengthen Opioid Misuse Prevention (STOP) Act

- Agents of the organizations may distribute the opioid antagonists to opioid addicts and their family members or friends.
- The organization is required to provide basic instruction on how to administer the opioid antagonist.
- Any organization, or its agents, that distribute opioid antagonists under this law are immune from civil or criminal liability for administering or distributing the drug.
- Effective: July 1, 2017



HOUSE BILL 243 (continued)

Strengthen Opioid Misuse Prevention (STOP) Act

- Amends G.S. 90–106.
- Limits the amount of opioids a doctor can prescribe to a single patient.
- Prescriptions of Schedule II through Schedule III drugs are limited to a 5-day supply for acute pain, and a 7-day supply for acute pain following a surgical procedure.
- Effective: January 1, 2018



HOUSE BILL 243 (continued)

Strengthen Opioid Misuse Prevention (STOP) Act

- G.S. 90–113.74C is created.
- Prior to writing an initial prescription, a medical practitioner must review the information in the Controlled Substances Reporting System (CSRS) for patients for the preceding 12-month period to avoid opioid overprescribing.



HOUSE BILL 243 (continued)

Strengthen Opioid Misuse Prevention (STOP) Act

- If the medical practitioner continues to renew the prescription, the practitioner must check the CSRS every 3 months and must look back for the preceding 12-month period.
- Applies to acts committed 30 days after the date the State Chief Information Officer certifies that the upgrades to the CSRS database have been made.
- Effective: June 29, 2017



HOUSE BILL 464

Revise Schedule of Controlled Substances

- Amends G.S. 14-17.
- Expands the offense of second-degree murder to include the death of a drug abuser that is caused by the unlawful distribution and ingestion of a depressant, methamphetamine, or any opium, opiate, or opioid (including any preparation of these substances).



HOUSE BILL 464 (continued)

Revise Schedule of Controlled Substances

- Amends G.S. 90-89 through G.S. 90-93.
- Adds to the schedule of controlled substances: fentanyl derivatives, designer hallucinogenics, synthetic cannabinoids, system depressants and other substances.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



HOUSE BILL 464 (continued)

Revise Schedule of Controlled Substances

- Effective July 18, 2017, the bill creates the Task Force on Sentencing Reforms for Opioid Drug Convictions.
- The Task Force is required to study and review cases of inmates who are incarcerated solely for convictions of opioid drug offenses and to consider options for reducing sentences for such individuals.



HOUSE BILL 469

Regulation of Fully Autonomous Vehicles



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HOUSE BILL 469 (continued)

Regulation of Fully Autonomous Vehicles

- Creates new Article 18 in Chapter 20 to regulate fully autonomous vehicles.
- G.S. 20-400 defines a fully autonomous vehicle as a motor vehicle equipped with an “automated driving system” that will not at any time require an occupant to perform any of the driving tasks while the automatic driving function is engaged.



HOUSE BILL 469 (continued)

Regulation of Fully Autonomous Vehicles

- An automated driving system would be the hardware and software in the vehicle that allows the vehicle to operate independently on a sustained basis.
- G.S. 20-401 allows an “operator” of a fully autonomous motor vehicle to operate the vehicle without a drivers license.
- The operator would be the person that causes the automated driving system to engage and the vehicle to drive or travel autonomously.



HOUSE BILL 469 (continued)

Regulation of Fully Autonomous Vehicles

- An operator would not include an occupant of the vehicle in control of such matters as trip scheduling or the selection of destinations.
- Under G.S. 20-401 the vehicle registration card, either physically or electronically, must be in the vehicle and must be readily available to a law enforcement officer or inspector.



HOUSE BILL 469 (continued)

Regulation of Fully Autonomous Vehicles

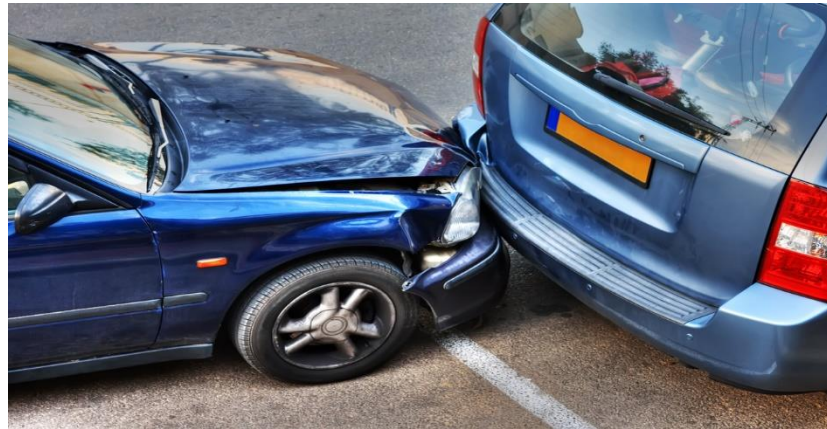
- The parent or legal guardian of a minor riding in a fully autonomous vehicle would be responsible for ensuring that the minor is restrained with a safety belt or child restraint seat.
- It is unlawful for any parent or guardian of a person less than 12 years of age to permit that person to occupy a fully autonomous vehicle in motion or which has the engine running, unless the minor is supervised by a person 18 years of age or older.



HOUSE BILL 469 (continued)

Regulation of Fully Autonomous Vehicles

- The registered owner of a fully autonomous vehicle is responsible for any moving violations.
- A fully autonomous vehicle is required to stop at the scene of an accident.



HOUSE BILL 469 (continued)

Regulation of Fully Autonomous Vehicles

- Pursuant to G.S. 20-403, the Fully Autonomous Vehicle Committee within the Department of Transportation (DOT) is created.
- The Committee will consist of 18 members, including a representative of the North Carolina Sheriffs' Association, the North Carolina State Highway Patrol, and the North Carolina Association of Chiefs of Police.



HOUSE BILL 469 (continued)

Regulation of Fully Autonomous Vehicles

- The Committee is required to make recommendations to the DOT and the General Assembly with respect to necessary changes to traffic rules, ordinances and State law in order to facilitate the use of fully autonomous vehicles.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



QUESTION:

Fred has a fully autonomous car. Which of the following statements are accurate?



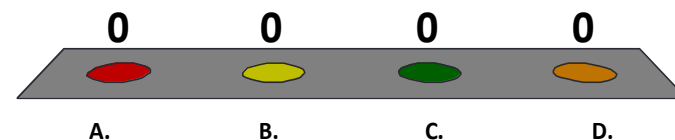
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ANSWER:

- A. Fred may engage a fully autonomous car without having a drivers license;
- B. Fred's 10-year-old daughter can be transported in the car, with no other person, so long as the 10-year-old is restrained by a safety belt or child restraint seat;
- C. The operator of the car is responsible for any moving violations that are committed while the car is in fully autonomous mode;
- D. All of the above.



HOUSE BILL 559

Outdoor Heritage Enhanced

- Amends G.S. 103–2.
- Expands hunting with firearms on Sunday to allow the hunting of upland game birds, such as quail, and migratory birds, such as ducks.



HOUSE BILL 559 (continued)

Outdoor Heritage Enhanced

- A landowner or member of the landowner's family, or a person with written permission from the landowner, is allowed to hunt wild animals and upland game birds with the use of firearms on Sunday on the landowner's property.
- There are exceptions.....



HOUSE BILL 559 (Continued)

Outdoor Heritage Enhanced

- Hunting on Sunday between 9:30 AM and 12:30 PM is prohibited except on controlled hunting preserves.
- A person cannot use a firearm to take deer that have been run or chased by dogs on Sunday.
- A person cannot hunt on Sunday within 500 yards of a place of religious worship.



HOUSE BILL 559 (Continued)

Outdoor Heritage Enhanced

- Subject to the rules established by the Wildlife Resources Commission, a person may hunt wild animals and upland game birds with the use of firearms on Sunday on public lands of the State.
- There are exceptions.....



HOUSE BILL 559 (Continued)

Outdoor Heritage Enhanced

- Hunting on Sunday between 9:30 AM and 12:30 PM is prohibited.
- A person cannot use a firearm to take deer that have been run or chased by dogs on Sunday.
- A person may not hunt on Sunday within 500 yards of a place of religious worship.



HOUSE BILL 559 (Continued)

Outdoor Heritage Enhanced

- Hunting migratory game birds on Sunday is prohibited unless allowed by rules of the Wildlife Resources Commission.
- There are exceptions.....



HOUSE BILL 559 (Continued)

Outdoor Heritage Enhanced

- Hunting on Sunday between 9:30 AM and 12:30 PM is prohibited, except on controlled hunting preserves.
- A person may not hunt on Sundays within 500 yards of a place of religious worship.
- The Wildlife Resources Commission cannot authorize the hunting of migratory birds on Sunday prior to March 1, 2018.



HOUSE BILL 559 (Continued)

Outdoor Heritage Enhanced

- G.S. 153A-129 is amended and allows a county to enact an ordinance to prohibit hunting on Sundays if:
 - There is a countywide referendum approved by a majority of voters;
 - The ordinance applies to the entire county; and
 - The ordinance allows a hunter to retrieve an animal lawfully shot in an adjacent county.



HOUSE BILL 559 (Continued) Outdoor Heritage Enhanced

- A violation for hunting on Sunday is a Class 3 misdemeanor.



- Effective: October 1, 2017



HOUSE BILL 716

CMVs / Use of Platoons

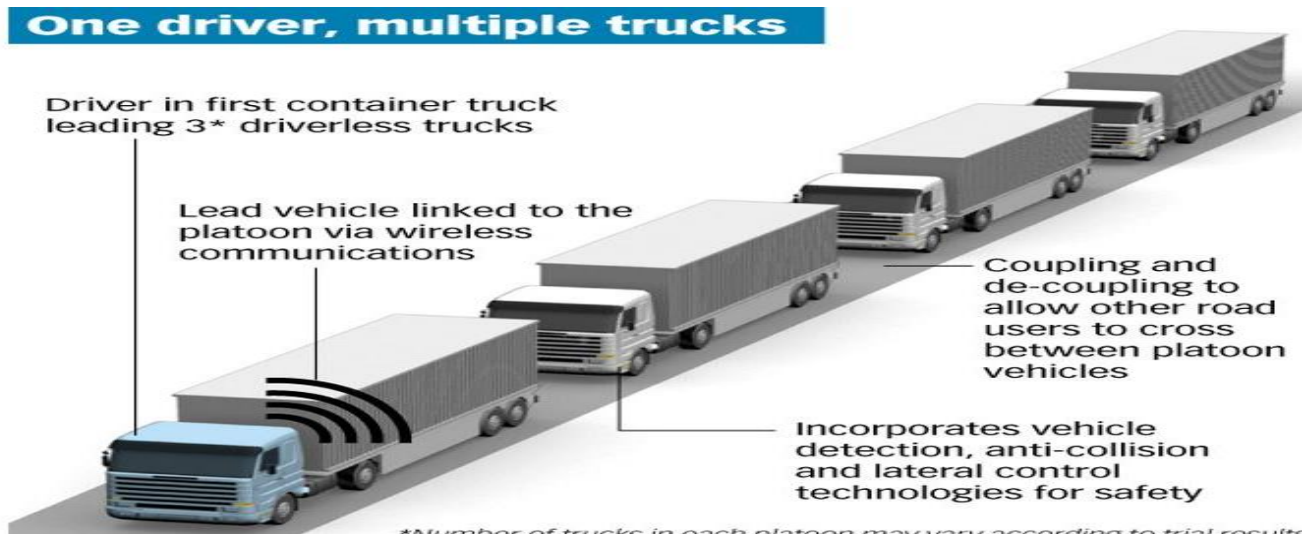
- Amends G.S. 20-152 (following too closely).
- The laws regulating the distance between motor vehicles traveling on the road do not apply to a non-leading commercial motor vehicle traveling within a "platoon" on any roadway where the Department of Transportation has authorized travel by platoon.



HOUSE BILL 716 (continued)

CMVs / Use of Platoons

- The law defines a platoon as a group of individual commercial motor vehicles traveling at close following distances in a unified manner through the use of an electronically interconnected braking system.



- Effective: August 1, 2017



SENATE BILL 74

Update Rabies Control Laws

- Amends G.S. 130A-197.
- Removes the requirement that animals such as dogs, cats and ferrets be destroyed or vaccinated in a timely manner.



SENATE BILL 74

Update Rabies Control Laws

- Instead adopts the recommendations and guidelines set out by the National Association of State Public Health Veterinarians in the most current edition of the Compendium of Animal Rabies Prevention and Control.
- This Compendium is available at:
<http://www.nasphv.org/Documents/NASPHVRabiesCompendium.pdf>
- Effective: October 1, 2017



SENATE BILL 88

Landlord/Tenant – Alias & Pluries Summary Eject.

- Modifies G.S. 7A-223.
- In summary ejectment cases that include a demand for money damages, if the service of process has been achieved solely by first-class mail and affixing the summons and complaint to the premises (and not by personal service on the defendant), then the plaintiff (landlord) can ask the magistrate to separate the claim for summary ejectment from the claim for money damages.



SENATE BILL 88 (continued)

Landlord/Tenant – Alias & Pluries Summary Eject.

- If personal service is not obtained on one or more of the defendants, an alias and pluries summons would be issued to be served on the defendant in the claim for money damages.
- The alias and pluries summons would be delivered to the sheriff for service upon the defendant in the claim for money damages.



SENATE BILL 88 (continued)

Landlord/Tenant – Alias & Pluries Summary Eject.

- If the alias and pluries summons is returned by the sheriff unserved, the plaintiff could have the summons served by a private process server.

STATE OF NORTH CAROLINA		RETURN	
County _____		In The General Court Of Justice <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division	
Name of Plaintiff	CIVIL SUMMONS <input type="checkbox"/> ALIAS AND PLURIES SUMMONS (ASSESS FEE)		
Address			
City, State, Zip	U.S. MAIL PERMIT NO. _____		
VERSUS		County-Subsequent Summons Issue	
Name of Defendant(s)	To Each Of The Defendant(s) Named Below:		
Address	Name and Address Of Attorney		
<p>A Civil Action Has Been Commenced Against You!</p> <p>You are notified to appear and answer the complaint of the plaintiff as follows:</p> <ol style="list-style-type: none"> 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and 2. File the original of the written answer with the Clerk of Superior Court of the county named above. <p>If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.</p>			
Name and Address Of Plaintiff (Attorney or Plaintiff)	Date	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM
Signature	<input type="checkbox"/> Deputy Clerk <input type="checkbox"/> Assistant Clerk <input type="checkbox"/> Clerk Of Superior Court		
Name of Defendant(s)	Date	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM
Signature	<input type="checkbox"/> Deputy Clerk <input type="checkbox"/> Assistant Clerk <input type="checkbox"/> Clerk Of Superior Court		
<p>NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned to mandatory arbitration, and if so, what procedure is to be followed.</p>			
<small>DOC-CF-100, Rev. 6/11 © 2011 North Carolina Office of the Courts</small>			

- Effective: October 1, 2017



SENATE BILL 160

Handicap Parking Privilege Certification

- Amends G.S. 20-37.6(c1).
- Allows licensed physician assistants and licensed nurse practitioners to make the certifications for a handicapped parking privilege.
- Current law also allows physicians, ophthalmologists, optometrists and the Division of Services for the Blind to make these certifications.



SENATE BILL 160 (continued)

Handicap Parking Privilege Certification

- Also allows a licensed certified nurse midwife to make the certification that a person is handicapped for purposes of obtaining a temporary removable handicapped windshield placard.

- Effective: July 12, 2017



SENATE BILL 182

Prohibit Use of Light Bars on Motor Vehicles

- Modifies G.S. 20-130.
- Prohibits a person from driving a motor vehicle on any public roadway while illuminating the lights on a “light bar lighting device.”



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SENATE BILL 182

Prohibit Use of Light Bars on Motor Vehicles

- A light bar lighting device is defined as a bar-shaped lighting device made up of multiple lamps that are capable of projecting light with an intensity greater than 25 candlepower.



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SENATE BILL 182 (continued)

Prohibit Use of Light Bars on Motor Vehicles

- Does not apply to ambulances, law enforcement and fire department vehicles, other emergency vehicles, and motorcycles.
- Does not prohibit the use of a light bar lighting device with strobing lights.
- Effective: October 1, 2017, and applies to offenses committed on or after that date.



SENATE BILL 217

Richmond/Right of Way Safety

- Local bill applicable only to Richmond County.
- Creates a Class 3 misdemeanor to shoot a firearm or bow and arrow, or to attempt to do so, from, on, across, or over a roadway or right-of-way of any public road in Richmond County.



SENATE BILL 217 (continued)

Richmond/Right of Way Safety

- Enforceable by Wildlife Resources Commission officers, and any other law enforcement officer with general subject matter jurisdiction.
- Effective: October 1, 2017, and applies to offenses committed on or after that date.



SENATE BILL 445

Expungement Process Modifications

- Makes numerous changes to the expunction laws to standardize the filing process.
- Also amends G.S. 15A-150.
- Requires the clerk of superior court to send a certified copy of an expunction order to the Combined Records Section of the Department of Public Safety and to the State Bureau of Investigation.



SENATE BILL 445 (continued)

Expungement Process Modifications

- Currently, the clerk of superior court is only required to send copies of expunctions to the arresting law enforcement agency, the DMV, and to any other State or local agency that has a record of the offense that is to be expunged.



SENATE BILL 445 (continued)

Expungement Process Modifications

- G.S. 15A-151 and G.S. 15A-151.5 are amended to allow prosecutors to have electronic access to all confidential expunction files maintained by the Administrative Office of the Courts if the record was expunged on or after July 1, 2018.



SENATE BILL 445 (continued)

Expungement Process Modifications

- This only applies to the expungement of the following:
 - Misdemeanor convictions for first offenders under the age of 18, including certain gang offenses.
 - Felony convictions for first offenders under the age of 18 that committed a nonviolent felony.
 - Expunged convictions for first offenders under the age of 21 convicted of certain drug offenses and toxic vapors offenses.



SENATE BILL 445 (continued)

Expungement Process Modifications

- Expunged records of certain offenders convicted of prostitution.
- Expunged records where the charges were dismissed.
- Expungement of felony or misdemeanor records where expunction was obtained without consideration of the age of the offender.



SENATE BILL 445 (continued)

Expungement Process Modifications

- This legislation will allow the expunged records to be used to calculate a prior record level if the offender is convicted of a subsequent offense.
- Effective: December 1, 2017, and applies to petitions for expungement filed on or after that date.



SENATE BILL 547

Restitution Remission/Notice and Hearing Req.

- Enacts new G.S. 15A-1340.39.
- Requires a district or superior court to provide 15 days advance written notice to the district attorney and the victim of a crime, notifying them of the right to be heard before entering an order excusing a criminal defendant from paying restitution owed to the victim.



SENATE BILL 547 (continued)

Restitution Remission/Notice and Hearing Req.

- The notice must specify the date and time of the hearing and must advise the victim of the right to object to the remission of all or part of the restitution owed.
- Effective: December 1, 2017, and applies to orders for remission entered on or after that date.



SENATE BILL 600

Britny's Law: IPV Homicide

- Amends G.S. 14-17.
- Creates a presumption that a murder is a premeditated killing and therefore would constitute first degree murder if the murder is committed by a defendant in a “personal relationship” with the victim, and
- If the defendant has previously been convicted of one of the following crimes involving the same victim:



SENATE BILL 600 (continued)

Britny's Law: IPV Homicide

- A crime involving domestic violence as defined in G.S. 50B-1(a) or the violation of a domestic violence protective order;
 - Communicating threats;
 - Stalking or cyberstalking; or
 - Domestic criminal trespass.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



QUESTION:

Fred kills Amy in a fit of jealous rage. Fred has been dating Amy regularly for the last five years and the two were sharing an apartment together. A review of Fred's criminal history record reveals that Fred was previously convicted of assault on a female 10 years prior. The victim in that assault was a previous girlfriend, not Amy. Since Fred has a previous conviction for domestic assault, he can be charged with 1st degree murder in the death of Amy.



ANSWER:

A. True

B. False



SENATE BILL 628

Various Changes to the Revenue Laws

- Amends G.S. 105-236(a).
- Create a Class G felony offense for anyone to knowingly use the identifying information of another person (such as the person's legal name, date of birth or social security number) to make a false submission to the North Carolina Department of Revenue in order to obtain anything of value.



SENATE BILL 628 (continued)

Various Changes to the Revenue Laws

- If the person whose information was unlawfully used is financially impacted because of the false filing, then the person who made the submission is guilty of a Class F felony.
- Effective: December 1, 2017, and applies to offenses committed on or after that date.



SENATE BILL 181

Electronic Notice - Guilford County

- Changes the law concerning the publication of legal notices only in Guilford County.
- Allows Guilford County and any municipality located in that County to publish any legal notice electronically if an ordinance is enacted by the Guilford County Board of Commissioners or an appropriate city council authorizing electronic filing.



SENATE BILL 181 (continued)

Electronic Notice - Guilford County

- This electronic publication may be in lieu of or in addition to the required print publication or advertisement.
- The Guilford County Commissioners, or city council as appropriate, are required to publish specific instructions regarding how to access notices published electronically.



SENATE BILL 181 (continued)

Electronic Notice - Guilford County

- Also, Guilford County is allowed, in the discretion of the Board of County Commissioners, to adopt an ordinance establishing the County Website as a central location for publishing and advertising legal notices.
- Ordinances allowing for electronic publication may not supersede any general law or local act that requires notice by mail to certain persons or classes of persons, or the posting of signs on certain property.



SENATE BILL 181 (continued)

Electronic Notice - Guilford County

- Finally, a Guilford County employee's sworn written statement is sufficient evidence that the County placed the notice, paper, document, or legal advertisement on its Website for the stated period of time.
- Effective: December 1, 2017, and applies to notices published on or after that date.



QUESTIONS?



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Retirement Benefits

Eddie Caldwell

**Executive Vice President and General Counsel
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Retirement Benefits Available to N.C. Law Enforcement Officers



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What is Available?

1. State or local government employee regular retirement benefits.
 - Based upon the average final compensation which is the four highest consecutive years of salary.
2. Special Separation Allowance Benefit.
3. Required employer contribution of 5% of officer's salary into 401(k) plan.
4. Sheriffs' Supplemental Pension Fund.



How Your Unreduced Retirement Benefit is Calculated

Example #1

*AFC = \$48,000

Constant/Factor = 1.85%

Creditable Service Years = 30

$$\begin{aligned} \$48,000 \times .0185 \times 30 &= \$26,640 \text{ per year} \\ &\text{or } \$2,220 \text{ per month} \end{aligned}$$

The monthly pension under the maximum payment option** would be \$2,220.

*Average Final Compensation (AFC) = 4 highest consecutive years of salary (not necessarily the last 4 years, but usually it is).

**The maximum payment option is the highest payment option and does not provide an on-going monthly benefit for a beneficiary.



How Your Unreduced Retirement Benefit is Calculated

Example #2

*AFC = \$48,000

Constant/Factor = 1.85%

Creditable Service Years = 5

$$\begin{aligned} \$48,000 \times .0185 \times 5 &= \$4,440 \text{ per year} \\ &\text{or } \$370 \text{ per month} \end{aligned}$$

The monthly pension under the maximum payment option** would be \$370.

*Average Final Compensation (AFC) = 4 highest consecutive years of salary (not necessarily the last 4 years, but usually it is).

**The maximum payment option is the highest payment option and does not provide an on-going monthly benefit for a beneficiary.



Law Enforcement Officers

§ 143-166.42. Special Separation Allowance (SSA)

To qualify for the SSA, a retired local law enforcement officer must have:

Completed 30 or more years of creditable service; or

Have attained 55 years of age and completed five or more years of creditable service; and

Not have attained 62 years of age; and

Completed at least five years of continuous service as a law enforcement officer immediately preceding a service (not disability) retirement;

Have a minimum of at least 50% of membership service as a sworn law enforcement officer.



The Special Separation Allowance will end under any of the following conditions:

- The death of the officer; or
- The last day of the month in which the officer attains 62 years of age; or
- The first day of reemployment by any local government employer in any capacity, except when the LEO is reemployed in a “public safety” position not requiring participation in LGERS.*

*** Meaning the LEO 1) works less than 1,000 hours per year; and 2) makes less than \$32,260 per year [2017 Amount].**



How to Calculate Your Special Separation Allowance

Example #1

Constant/Factor = .85%

Service years = 30

Annual salary = \$48,000

$.0085 \times 30 \times \$48,000 = \$12,240$ per year
or \$1,020 per month



How to Calculate Your Special Separation Allowance

Example #2

Constant/Factor = .85%

Service years = 5

Annual salary = \$48,000

$.0085 \times 5 \times \$48,000 = \$2,040$ per year
or \$170 per month



Law Enforcement Officers

An unreduced retirement benefit combined with the Special Separation Allowance would provide a retired local law enforcement officer with:

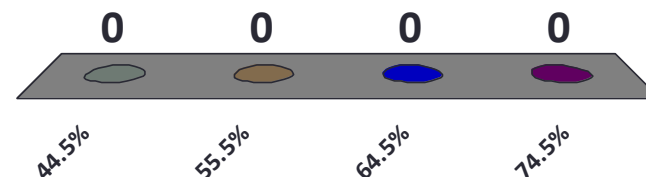
30 years = \$26,640 + \$12,240 = \$38,880 per year
or \$3,240 per month

5 years = \$4,440 + \$2,040 = \$6,480 per year
or \$540 per month



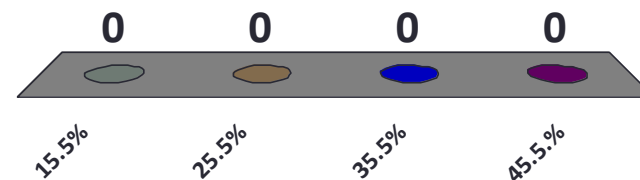
With 30 years of service, what percentage of a person's average final compensation is the State or local government regular retirement benefit?

1. 44.5%
2. 55.5%
3. 64.5%
4. 74.5%



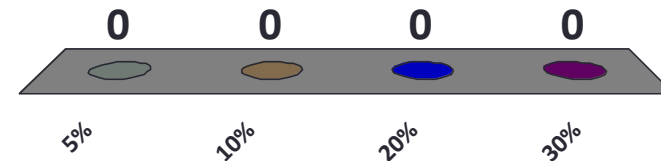
With 30 years of service, what percentage of the average final compensation is the Special Separation Allowance benefit?

1. 15.5%
2. 25.5%
3. 35.5%
4. 45.5.%



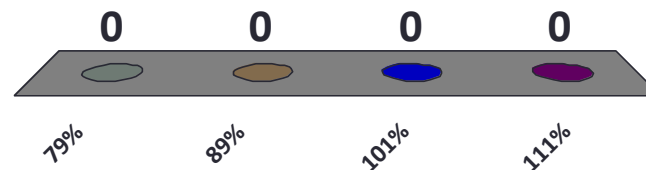
With 30 years of service, what percentage of the average final compensation is the 401(k) benefit?

1. 5%
2. 10%
3. 20%
4. 30%



With 30 years of service, what is the percentage of the average final compensation when the regular retirement, Special Separation Allowance and 401(k) are added together?

1. 79%
2. 89%
3. 101%
4. 111%



Example --- 30 years of Creditable Service

Average Final Compensation = \$48,000

Unreduced Retirement Benefit = \$26,640 or **55.5%** of AFC

Special Separation Allowance = \$12,240 or **25.5%** of AFC

Sub-total: \$38,880 or **81%** of AFC



81% of AFC

- Plus 5% of salary (and interest) for 30 years paid into the 401 (k) Plan.
- And you can count unused sick leave toward retirement credits.
- Most retire after 28 years – some retire after 27 ½ years.



Retirement Changes Unique to Sheriffs

- Changes to Sheriffs' Supplemental Pension Fund in 2017.



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SENATE BILL 384

Criminal Law Changes

- Eligible sheriffs are those who have retired from the Local Governmental Employees' Retirement System and who are 55 years of age or older or have 30 years of creditable service regardless of age (or been approved for disability benefits); AND
- Who have completed at least 10 years of service as sheriff.



SENATE BILL 384 (continued)

Criminal Law Changes

- Eligible retired sheriffs will be entitled to a benefit from the Fund that, when added to the retired sheriff's retirement benefit from the Local Governmental Employees' Retirement System (LGERS), will be equal to 75% of the sheriff's annual salary at retirement.
- BUT.....



SENATE BILL 384 (continued)

Criminal Law Changes

- A retired sheriff's payment from the Fund cannot exceed \$18,000 per year [\$1,500 per month].
- Also, each retired sheriff's payment from the Fund cannot exceed 100% of the sheriff's annual salary at retirement when the payment from the Fund is added to the retired sheriff's benefit from LGERS and the retired sheriff's special separation allowance benefit earned pursuant to G.S. 143-166.42.



Example --- Sheriff retires at 55 with 30 years of creditable Service AND was sheriff for at least 10 years of those 30 years.

Average Final Compensation (AFC) = \$48,000

At retirement sheriff will receive:

\$26,640 (LGERS)

\$12,240 (SSA)

\$38,880

75% of \$48,000 = \$36,000

Sheriff will not be eligible for a benefit from the SSPF because the sheriff is already receiving 75% of the AFC.



Example Continued ---

At age 62: SSA ends and the sheriff is only receiving \$26,640 from LGERS.

75% of \$48,000 (AFC) = \$36,000

Since the sheriff is now receiving less than 75% of AFC, the Sheriff may begin receiving a benefit from SSPF.

Total benefits must not exceed 75% of AFC.

\$36,000 (75% of AFC)
<u>-\$26,640 (LGERS)</u>
\$9,360

Sheriff will begin receiving \$9,360 per year from the SSPF.



HOUSE BILL 176

Pensions Integrity Act of 2017

- Modifies G.S. 143-166.84.
- Allows sheriffs the option to transfer their sick leave accrued under the Local Governmental Employees' Retirement System to the Sheriffs' Supplemental Pension Fund.



HOUSE BILL 176 (continued)

Pensions Integrity Act of 2017

- If a sheriff exercises this option, the sick leave would count towards the sheriffs' eligible service under the Sheriffs' Supplemental Pension Fund.
- If a sheriff exercises this option, the sheriff would have to transfer all of the sick leave to the Sheriffs' Supplemental Pension Fund and none of the sick leave could be applied to the sheriff's retirement under the Local Governmental Employees' Retirement System.
- Effective: July 1, 2017 and expires July 1, 2022.



SENATE BILL 384

Criminal Law Changes

- Amends G.S. 143-166.82.
- Creates a provision that will fully fund the retirement benefits for retired sheriffs from the Sheriffs' Supplemental Pension Fund (Fund).



SENATE BILL 384 (continued)

Criminal Law Changes

- In any year where court costs allocated to the Fund are insufficient to pay the full benefits owed to eligible retired sheriffs, the North Carolina Department of Justice will bill each county on a pro-rata basis (based on county population) for the amount of the additional funds needed to pay the benefits owed from the Fund.



SENATE BILL 384 (continued)

Criminal Law Changes

- The new law specifies that counties may use their portion of the civil process service fees that is not required by statute to be used to ensure the timely service of process within the county, or any other funds of the county, to pay the county's contribution to the Fund.
- Effective: The full funding changes will apply to benefits paid from the Fund on and after January 1, 2018.



SENATE BILL 384 (continued)

Criminal Law Changes

- The ability to count sick leave towards eligibility for the Sheriffs' Supplemental Pension Fund was effective July 1, 2017 and expires July 1, 2022.



25 Year Retirement Option

- Two bills were introduced in the General Assembly this session for a 25 year retirement option, but they failed to pass.



- Let's take a look at those bills.....



HOUSE BILL 284

25-Year LEO Retirement Option

- Bill would give LEOs who are members of TSERS or LGERS the option to retire after completing 25 years of creditable service.
- State LEOs would use 1.82% of the officer's average final compensation to calculate their retirement pay.
- Local government LEOs would use 1.85% of the officer's average final compensation to calculate their retirement pay.



HOUSE BILL 284 (continued)

25-Year LEO Retirement Option

- The monthly retirement benefit for an officer retiring with only 25 years of creditable service would be less than the benefit for an officer retiring after 30 years of creditable service because the officer would be working fewer years, and therefore would receive less retirement money per month.



Impact of 25 Year v. 30 Year LGERS Retirement

Example #1

*AFC = \$48,000

Constant/Factor = 1.85%

Creditable Service Years = 30

$$\begin{aligned} \$48,000 \times .0185 \times 30 &= \$26,640 \text{ per year} \\ &\text{or } \$2,220 \text{ per month} \end{aligned}$$

The monthly pension under the maximum payment option** would be \$2,220.

*Average Final Compensation (AFC) = 4 highest consecutive years of salary (not necessarily the last 4 years, but usually it is).

**The maximum payment option is the highest payment option and does not provide an on-going monthly benefit for a beneficiary.



Impact of 25 Year v. 30 Year LGERS Retirement

Example #2

*AFC = \$48,000

Constant/Factor = 1.85%

Creditable Service Years = 25

$$\begin{aligned} \$48,000 \times .0185 \times 25 &= \$22,200 \text{ per year} \\ &\text{or } \$1,850 \text{ per month} \end{aligned}$$

The monthly pension under the maximum payment option** would be \$1,850.

*Average Final Compensation (AFC) = 4 highest consecutive years of salary (not necessarily the last 4 years, but usually it is).

**The maximum payment option is the highest payment option and does not provide an on-going monthly benefit for a beneficiary.



Impact of 25 Year v. 30 Year LGERS Retirement

AFC = \$48,000

30 years = \$26,640 per year

25 years = \$22,200 per year

Difference = \$4,440 per year
or \$370 per month

Note: This annual reduction in benefit will continue throughout your lifetime.



HOUSE BILL 284 (continued)

25-Year LEO Retirement Option

- The bill would also allow, but not require, any State or local government employer to offer a lump sum payout of an officer's special separation allowance, or a portion thereof, to the officer if the officer chooses to retire before they are eligible for the special separation allowance.



SENATE BILL 199

Law Enforcement Officer Retirement/25 Years

- Substantially similar to House Bill 284.
- Would give law enforcement officers who are members of TSERS or LGERS the option to retire after completing 25 years of creditable service.



SENATE BILL 199 (continued)

Law Enforcement Officer Retirement/25 Years

- State LEOs would use 1.82% of the officer's average final compensation to calculate their retirement pay.
- Local government LEOs would use 1.85% of the officer's average final compensation to calculate their retirement pay.
- The monthly retirement benefit for an officer retiring with only 25 years of creditable service would be less than the benefit for an officer retiring after 30 years of creditable service because the officer would be working fewer years, and therefore would receive less retirement money per month.



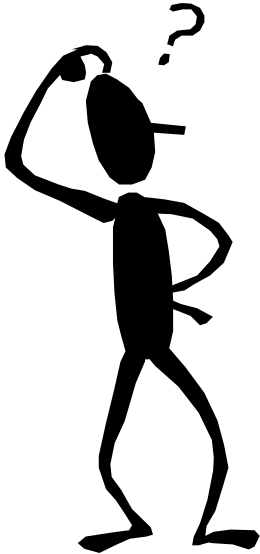
SENATE BILL 199 (continued)

Law Enforcement Officer Retirement/25 Years

- Bill would also allow State and local law enforcement officers to collect their special separation allowance after 25 years of creditable service.
- Monthly special separation allowance benefit after 25 years of service would be less than after 30 years of service because the officer would have worked fewer years, but the officer would collect the benefit for five additional years.



QUESTIONS?



Closing Remarks

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Executive Vice President and General Counsel
North Carolina Sheriffs' Association

Please Turn in Evaluation Forms



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FINAL LEGISLATIVE REPORT

2017

North Carolina Sheriffs' Association



North Carolina Sheriffs' Association
Telephone: (919) SHERIFF (743-7433)
www.ncsheriffs.org

October 2017



NORTH CAROLINA SHERIFFS' ASSOCIATION

Final Legislative Report

2017

The 2017 Session of the North Carolina General Assembly convened on Wednesday, January 11, 2017, with the House of Representatives and Senate adjourning shortly after 2:00 a.m. on Friday, June 30, 2017.

During this 2017 Session of the General Assembly, 927 House Bills and 692 Senate Bills were introduced, for a total of 1,619 legislative bills available for consideration. Of the 1,619 legislative bills introduced, 222 of them were enacted into law, which is 14%. Governor Roy Cooper signed 144 bills, allowed five to become law without his signature, and vetoed 13 bills with eight of the Governor's vetoes being overridden by the General Assembly. Some bills are enacted into law by the General Assembly and do not go to the Governor for signature. For example, "local" bills (which are those that affect 14 or fewer counties) and bills authorizing a vote on an amendment to the North Carolina Constitution do not go to the Governor for his signature.

This Final Legislative Report of the North Carolina Sheriffs' Association summarizes bills of interest to sheriffs, sheriffs' office personnel and other criminal justice professionals. Included in this Final Legislative Report are summaries of: (i) relevant provisions of the 2017 State Budget Bill and (ii) relevant bills enacted into law this Session.

For specific details about the legislative bills summarized below, please review the actual legislation. Copies of any of the legislation introduced or considered by this year's General Assembly are available on the General Assembly's website: www.ncleg.net. You may also receive one copy of any bill, free of charge, by calling the General Assembly's Printed Bills Office at 919-733-5648. They will need to know if it is a House Bill or Senate Bill and the bill number; for example, Senate Bill 8.

STATE BUDGET ACT SENATE BILL 257

[SENATE BILL 257](#), Appropriations Act of 2017, makes budgetary changes and numerous other changes to the laws of this State. Those items of interest to the criminal justice community include:

1. There is a \$10 million budget reduction to the North Carolina Department of Justice ("DOJ") for the 2017-2019 fiscal biennium. This provision does not specify what part of the Department of Justice budget must be reduced. It requires the Attorney General to decide where to make the budget cuts. The Attorney General is prohibited by this provision from making funding cuts to the State Crime Laboratory or the Criminal Justice Training and Standards Division of his Office. As of the date of this Report, approximately 45

positions of the DOJ have been eliminated and more cuts are expected.

2. Effective July 1, 2017, amends G.S. 147-17 and G.S. 114-2.3 to prohibit State funds from being used to pay for the litigation services of private legal counsel for any State agency, institution, department, bureau, board or commission, unless specifically authorized by the General Assembly.
3. Effective July 1, 2017, the Board of Governors of The University of North Carolina is required to study the feasibility of establishing a pilot program for Basic Law Enforcement Training (BLET) at Winston-Salem State University. The Board of Governors is required to report their findings on the costs and financial benefits of such a program to the Senate and House of Representatives no later than March 1, 2018.
4. Effective July 1, 2017, \$2.4 million, disbursed over two consecutive years, is appropriated to the Department of Health and Human Services, Division of Central Management and Support, to improve the security and functionality of the North Carolina Controlled Substances Reporting System (“CSRS”). The CSRS is used by medical practitioners and pharmacists to identify individuals that misuse controlled substances, and to avoid the overprescribing of controlled substances such as opioids.
5. Effective July 1, 2017, amends G.S. 90-113.75A to expand the Prescription Drug Abuse Advisory Committee and to rename the Committee as the Opioid and Prescription Drug Abuse Advisory Committee. The Committee is comprised of representatives from various State entities, such as the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the State Bureau of Investigation, the Division of Adult Correction and Juvenile Justice and the North Carolina Attorney General’s Office. This Committee is tasked with developing and implementing a Statewide plan to address the problem of opioid and prescription drug addiction.
6. Effective July 1, 2017, \$25,000 a year for two fiscal years (2017-2019) is appropriated to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, for use to buy opioid antagonists to be given at no charge to North Carolina law enforcement agencies.
7. Effective July 1, 2017, the Department of Public Safety (“DPS”), in conjunction with the City of Wilmington, is required to create a pilot project Quick Response Team (“QRT”) to provide overdose treatment services for opiate and heroin victims who are not receiving follow-up treatment. The QRT will consist of law enforcement officers, firefighters and medics. DPS and the City of Wilmington are required to work together to determine what services will be provided by the QRT, such as counseling services and follow-up care for opiate and heroin addicts. The Department of Public Safety and the City of Wilmington must report on the progress of this pilot project to the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2019.
8. Effective July 1, 2017, funds previously appropriated to the Department of Public Safety in 2015 for body-worn camera grants must now be used to provide “matching grants” to local and county law enforcement agencies to purchase and use body-worn or dashboard

video cameras. The grants will be administered by the Governor's Crime Commission and an individual grant must not exceed \$100,000. The receiving law enforcement agency must match dollar for dollar the amount of the grant in order to qualify. The grant recipient is also required to have in place appropriate policies and procedures for the use of dashboard or body-worn cameras, and for the proper storage of images recorded with these devices. The 2015 grant provisions required the grant recipient to provide \$2 in local funds for every \$1 received in grant funds.

9. Effective July 1, 2017, the State Capitol Police are authorized to contract with State agencies to provide security services in the buildings occupied by those agencies.
10. Effective July 1, 2017, the Department of Justice and the Department of Public Safety are prohibited from using federally forfeited assets for new personnel positions, new projects, and acquisitions of real property and repair of buildings without having the prior approval of the General Assembly.
11. Amends G.S. 14-34.6 to expand the Class I felony offense of assault or affray on a firefighter, emergency medical technician, medical responder or hospital personnel to also include hospital security personnel. Effective December 1, 2017, and applies to offenses committed on or after that date.
12. Effective July 1, 2017, enacts new G.S. 20-189.1, which creates the Lieutenant Governor Executive Protection Detail to protect the Lieutenant Governor and his family. The Commander of the State Highway Patrol is required to appoint to this Detail three State Highway Patrol troopers selected by the Lieutenant Governor.
13. Effective July 1, 2017, amends G.S. 103-4 to make September 11 a legal public holiday designated as "First Responders Day." This designation does NOT entitle an employee to the day off.
14. Effective July 1, 2017, amends G.S. 143B-1407 to designate the North Carolina State Highway Patrol as an eligible public safety answering point ("PSAP") for purposes of applying to the 911 Board for a grant.
15. Effective July 1, 2017, creates new G.S. 20-187.5 to authorize the North Carolina Troopers Association to use all trademarks of the North Carolina State Highway Patrol.
16. Effective July 1, 2017, creates new G.S. 20-189.2 to require the North Carolina State Highway Patrol, upon 48 hours' notice, to provide a security detail for the Speaker of the House of Representatives and the President Pro Tempore of the Senate while those persons are traveling within North Carolina on State business.
17. Effective July 1, 2017, amends G.S. 143B-919 to expand the subject matter jurisdiction of the State Bureau of Investigation ("SBI") to allow the SBI, upon request of either the Governor or Attorney General, to investigate human trafficking crimes and crimes involving nuclear, biological and chemical weapons of mass destruction.

18. Effective June 1, 2017, amends G.S. 143B-911 to relocate the State Capitol Police, which was a section of the North Carolina State Highway Patrol, to be a Division of the Department of Public Safety. The transfer of personnel to or from the State Capitol Police, or changes to its current authorized budget, is prohibited until after the State Capitol Police is transferred from the North Carolina State Highway Patrol to the Department of Public Safety.
19. Effective July 1, 2017, amends G.S. 143B-928 to prohibit the transfer of ALE positions or changes to its current authorized budget unless approved by the General Assembly. In addition, any funds or property distributed to ALE as a result of any federal forfeiture are required to be used only for ALE purposes.
20. The Department of Public Safety will continue to pay the sum of \$40 per day as reimbursement to counties for the cost of housing backlogged convicted inmates who were sentenced to imprisonment in the Division of Adult Correction and Juvenile Justice (“DACJJ”). In order to receive the daily reimbursement, the sheriff must have a signed order of commitment to DACJJ from the court; and the local jail must contact DACJJ and advise that the convicted inmate is ready for transfer to DACJJ. If DACJJ has no bedspace, then reimbursement must be given beginning the day after the sheriff gave notification that the inmate was ready for transfer.
21. The Department of Public Safety, in collaboration with the Department of Health and Human Services, is required to study the feasibility of the State implementing a Health Information Exchange (HIE) program that will allow for the electronic transfer of inmate health information. The Departments must report their findings to the Joint Legislative Committees on Justice and Public Safety and Health and Human Services by February 1, 2018.
22. The Department of Public Safety, Division of Adult Correction and Juvenile Justice (“DACJJ”), is required to report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for DACJJ employees: (i) the number of employees charged with a criminal offense that occurred while they were working in a State Prison; (ii) the number of employees disciplined, demoted or separated due to misconduct; (iii) a description of the screening process used to select and hire employees; (iv) the average number of days between assignment of a correctional officer to duties and the completion of Correctional Officer Basic Training; and (v) the methods used by DACJJ to prevent contraband from entering the prison system and an evaluation of how effective that process is.

This report is due no later than February 1, 2018, and must include the requested data for the last five fiscal years.

23. The bill makes various changes to the juvenile justice system. Those items of interest to the criminal justice community include:
 1. Amends G.S. 7B-1501 to include 16 and 17-year-old offenders as juveniles for purposes of juvenile court jurisdiction. Therefore, the age at which an

individual is treated as an adult criminal offender is raised to the age of 18, but there are some exceptions. The raising of the juvenile age does NOT apply to motor vehicle offenses.

However, the law creates new G.S. 7B-2200.5 that requires a 16 or 17-year-old, when probable cause has been found by the court to believe the juvenile committed a Class A, B1, B2, C, D, E, F or G felony, to be transferred to superior court to be tried as an adult.

2. New G.S. 7B-2200.5 also gives a court the discretion to transfer to superior court any 16 or 17-year-old charged with the commission of a Class H or I felony.
3. Amends G.S. 14-316.1 to require an offender to be at least 18 years of age to be guilty of the criminal offense of contributing to the delinquency of a juvenile. Prior to this amendment, 16 and 17-year-old juveniles could be convicted of contributing to the delinquency of a juvenile.
4. Amends G.S. 17E-4 and G.S. 17C-6 to authorize the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission to develop education and training materials on juvenile justice issues such as detention, referral to diversionary programs and best practices for handling incidents involving juveniles.
5. Amends G.S. 7B-1702 to require a juvenile court counselor to conduct a gang assessment when evaluating a juvenile to determine whether a delinquency petition should be filed.
6. Amends G.S. 7B-2508 to require a court to enter a sentence that is one class higher than the class of the offense the juvenile is charged with committing if a juvenile is adjudicated delinquent and the court finds that the juvenile was involved in gang activity.
7. The bill establishes the Juvenile Jurisdiction Advisory Committee, which is comprised of various State and local officials, including one sheriff appointed by the Speaker of the House of Representatives and one chief of police appointed by the President Pro Tempore of the Senate. This Advisory Committee is required to develop a plan to address the costs of the changes to the juvenile justice system. The current law does not provide funding for these changes to the juvenile justice system.

Effective: December 1, 2019, and applies to offenses committed on or after that date.

24. Effective October 1, 2017, amends G.S. 7B-3001 to require a juvenile court counselor to share information in a juvenile's record with a law enforcement officer. In order to obtain the information, the officer must be investigating an incident that could result in the filing

of a juvenile delinquency complaint; the officer must request the information; and the officer must be a North Carolina sworn law enforcement officer. The juvenile court counselor must share information related to the juvenile's delinquency record and any prior consultations that any law enforcement officer has had with any juvenile court counselor about the juvenile. The law enforcement officer may not obtain a copy of any part of the record.

25. Effective July 1, 2017, the North Carolina Department of Justice is prohibited from hiring sworn personnel to fill vacant positions in the North Carolina State Crime Laboratory. However, current employees of the North Carolina State Crime Laboratory that have maintained their sworn status are allowed to continue their employment at the Laboratory.
26. Effective June 28, 2017, amends G.S. 74E-6 to authorize company police agencies to enter into mutual aid agreements to provide temporary law enforcement assistance with the governing board of a municipality or with a county, provided the sheriff of that county consents. Company police officers are also authorized to provide "as needed" temporary assistance to a chief of police or to a sheriff without the need to enter into a mutual aid agreement, if the assistance is requested by the head of a law enforcement agency or their designee.
27. Effective June 28, 2017, amends G.S. 14-202.13, G.S. 18B-1003, G.S. 19-8.4, and G.S. 131E-84.1 to require hospital emergency departments, State rest areas, State welcome centers, adult "live entertainment" establishments, and adult bookstores to post in a conspicuous location a public awareness sign and hotline telephone number concerning human trafficking. The North Carolina Human Trafficking Commission must design and provide these signs.
28. Local law enforcement agencies are required to inventory their Sexual Assault Evidence Collection Kits ("SAECKs"), and to report to the North Carolina State Crime Laboratory the total number of SAECKs in their custody or control. In addition to the total number of SAECKs, local agencies are required to report the number of SAECKs that: (i) are associated with a case that has been resolved in court; (ii) were not submitted for testing by the agency because the suspect admitted to the sexual act; (iii) were not submitted for testing by the agency because the allegations were determined to be unfounded; and (iv) are not associated with an identifiable victim. These local law enforcement reports are due no later than January 1, 2018, and the North Carolina State Crime Laboratory is required to report the findings to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2018.
29. Effective July 1, 2017, amends G.S. 7A-304(a) to require a district or superior court judge to include in the court costs a payment of \$600, which must be provided to the Department of Justice for use by the State Crime Laboratory, in all criminal convictions where digital forensics was performed by the State Crime Laboratory (such as an analysis of a computer).

Additionally, in all criminal convictions where an expert witness employed by the State Crime Laboratory provides testimony at trial relating to digital forensics analysis, the district or superior court judge must include in the court costs a payment of \$600, which must be provided to the Department of Justice for use by the State Crime Laboratory. This

\$600 fee for expert witness trial testimony is in addition to the \$600 digital forensics testing fee described above.

30. G.S. 7A-304(a) is also amended, effective July 1, 2017, to require a district or superior court judge to include in the court costs a payment of \$600 in all criminal convictions where a digital forensics analysis was performed by a local government crime laboratory facility, if the court finds that the digital forensics performed by the local government crime laboratory is equivalent to the digital forensics work performed by the North Carolina State Crime Laboratory. The payment of the \$600 laboratory fee must be submitted to the general fund of the local law enforcement unit to be used for local crime laboratory purposes.

Additionally, in all criminal convictions where an expert witness employed by a local government crime laboratory facility provides testimony at trial relating to digital forensics analysis, the district or superior court judge must include in the court costs a payment of \$600, which must be submitted to the general fund of the local law enforcement unit to be used for local crime laboratory purposes. This \$600 fee for trial testimony is in addition to the \$600 digital forensics testing fee described above.

31. Amends G.S. 7A-304(a) to prohibit a court from waiving all or part of any court fines or costs following a conviction or entry of a guilty plea or nolo contendere, unless the court first provides notice and opportunity to be heard by all government entities directly affected by the court costs. The notice must be given 15 days in advance of the hearing, must specify the date and time of the hearing and must advise the agency of their right to object to the waiver of costs. This is effective December 1, 2017, and applies to all cases arising on or after that date.
32. Amends G.S. 135-1 and G.S. 143-166.41(b) to make probation or parole officers eligible for the law enforcement officer's special separation allowance. This does not entitle probation or parole officers to the 5% contribution into the Supplemental Retirement Income Plan. This is effective July 1, 2017, and applies to persons retiring on or after that date.
33. Effective July 1, 2017, \$2.2 million is allocated to the Department of Public Safety to renovate the Swannanoa Correctional Center for Women to allow for portions of the facility to be used as a female Confinement in Response to Violation ("CRV") facility.

HOUSE BILLS

[HOUSE BILL 21](#), Driver Instruction/Law Enforcement Stops, amends G.S. 20-88.1(d), effective January 1, 2018, to require the Division of Motor Vehicles, in consultation with the State Highway Patrol, the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police, to include in the driver's license handbook a description of law enforcement procedures during traffic stops and the actions that a motorist should take during a traffic stop. This should include instructions on appropriate interactions with law enforcement officers. The Department of Public Instruction is required to instruct on this topic in the driver education curriculum. This

curriculum is offered at public high schools in this State and must include this new topic beginning with the 2017-2018 school year.

Effective: January 1, 2018

[HOUSE BILL 27](#), Clarify Expiration of Vehicle Registration, amends G.S. 20-66(g)(1) to clarify that a motor vehicle's registration that is renewed by the issuance of a new registration plate will remain valid through midnight of the last day of the year in which the new registration plate was issued. The law, however, provides a grace period that allows the vehicle to be operated through midnight February 15th of the next year.

Effective: July 12, 2017

[HOUSE BILL 56](#), Amend Environmental Laws, makes numerous changes to North Carolina's environmental laws. One provision in this law requires the Environmental Management Commission and the Department of Environmental Quality to implement rules to protect existing riparian buffers (vegetated buffers) along various waterways throughout the State.

Of interest to the criminal justice community, the law provides that when the head of a local law enforcement agency with jurisdiction over a publicly owned space has determined that a riparian buffer poses a risk to public safety, then the riparian buffer could be exempt from these rules. For example, if the sheriff or police chief who has jurisdiction over a public area determines that hedges that border a river would pose a danger to public safety by shielding criminal acts unless the hedges were trimmed, then these hedges could be exempt from these rules.

This applies only to the following areas: 1) the Neuse River Basin; 2) Tar-Pamlico River Basin; 3) Randleman Lake Watershed; 4) Jordan Lake Watershed; 5) Goose Creek Watershed; and 6) the Catawba River Basin. The head of the law enforcement agency must first obtain authorization from the Environmental Management Commission before altering any riparian buffer in these areas.

Effective: October 4, 2017

[HOUSE BILL 84](#), DL/Deaf or Hard of Hearing Designation, modifies G.S. 20-7 and requires the Division of Motor Vehicles (Division), in consultation with the Department of Public Safety, the State Highway Patrol and the Division of Services for the Deaf and Hard of Hearing, to develop a designation to be placed on drivers licenses to indicate a driver is hearing impaired, if the driver requests it.

If requested by the hearing impaired driver, the Division will enter the drivers license designation into the electronic record of any motor vehicle registered to the deaf or hard of hearing driver. The Division will also develop a process where the driver can also request the designation be removed. The information collected by the Division is only available to law enforcement and only for the purposes of ensuring mutually safe interactions between law enforcement and persons who are deaf or hard of hearing.

Additionally, G.S. 17E-4(a) and G.S. 17C-6(a) are modified to authorize the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission, respectively, to establish educational and training standards for law enforcement officers concerning recognizing and interacting with persons who

are deaf or hard of hearing, and driver's license and vehicle registration identifiers of persons who are deaf or hard of hearing.

Effective: January 1, 2018

[HOUSE BILL 95](#), Truck Deliveries to Port/Night Travel, amends G.S. 20-199 to authorize the Department of Transportation to issue special permits to allow oversized or overweight vehicles to transport cargo, containers and other equipment after sunset when transporting to or from international ports.

Effective: July 12, 2017

[HOUSE BILL 98](#), Crim. Offense/Vandalize Fire & EMS Equipment, creates new G.S. 14-160.3 which provides that it is a Class 1 misdemeanor for a person to intentionally injure, destroy, remove, vandalize or interfere with the operation of any firefighting equipment, ambulance, or rescue squad emergency medical services vehicle or equipment.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[HOUSE BILL 125](#), Threatened Weapon Inc. in First-Degree Rape, amends G.S. 14-27.21 and G.S. 14-27.26 to include as an element in the offenses of first-degree forcible rape and first-degree forcible sex offense, respectively, the use, threatened use, or display of dangerous or deadly weapons in the commission of the crime. Currently, this element in these offenses only applies if the defendant employs or displays the weapon.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[HOUSE BILL 128](#), Prohibit Drone Use Over Prison/Jail, creates new G.S. 15A-300.3 and regulates the use of unmanned aircraft systems, commonly referred to as drones, near local, State, and federal confinement facilities. Unless one of the below exceptions is met, no person or entity, including any State agency, is able to use an unmanned aircraft system (UAS) within either a horizontal distance of 500 feet, or a vertical distance of 250 feet, from any local, State or federal confinement facility. The horizontal distance is measured from the furthest exterior building walls, perimeter fences, and permanent fixed perimeter, or from another boundary clearly marked with posted notices prohibiting the use of a UAS.

These restrictions do not apply to:

1. A person operating a UAS with written consent from the official in charge of the confinement facility.
2. Law enforcement officers operating a UAS while discharging their official duties.
3. A public utility or commercial entity, as long as:
 - (i) The UAS is not used within either a horizontal or vertical distance of 150 feet from any local, State, or federal confinement facility;
 - (ii) The public utility or commercial entity notifies the official in charge of the confinement facility at least 24 hours prior to operating the UAS;

- (iii) The public utility or commercial entity uses the UAS to inspect public utility or provider transmission lines, equipment, or communication infrastructure or any other purpose directly related to the business of the entity;
 - (iv) The public utility or commercial entity complies with all Federal Aviation Administration (FAA) regulations; and
 - (v) The person operating the UAS does not physically enter the prohibited space of the confinement facility without an escort from the facility.
4. An emergency management agency, emergency medical services personnel, firefighters, and law enforcement officers, when using a UAS in response to an emergency.

Any person who delivers, or attempts to deliver, a weapon to a local, State, or federal confinement facility using a UAS is guilty of a Class H felony, which would include a fine of \$1500.

Any person who uses a UAS to deliver, or attempt to deliver, contraband to a local, State or federal confinement facility is guilty of a Class I felony, which includes a fine of \$1000. The term contraband includes controlled substances, cigarettes, alcohol, and communication devices, but does not include weapons.

Any other person who flies a UAS in violation of the standards set forth in this law is guilty of a Class 1 misdemeanor, which includes a fine of \$500.

A law enforcement agency is authorized, but not mandated, to seize a UAS and any attached property, weapons, or contraband when the UAS is used in violation of this law. A seized UAS is subject to the same forfeiture and disposition guidelines established for property seized pursuant to an alcoholic beverage control law violation under G.S. 18B-504.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[HOUSE BILL 138](#), Revise Gang Laws, makes numerous changes to the criminal laws governing illegal criminal gang activity. Those changes of interest to the criminal justice community are:

1. Enacts new G.S. 14-50.16A, which defines a criminal gang as any ongoing organization, association, or group of three or more persons that has as one of its primary activities the commission of criminal acts and shares a common name, identification, symbols, or other types of distinguishing characteristics.
2. "Criminal gang member" is defined as a person that meets three or more of the following nine criteria:
 - (i) The person admits to being a criminal gang member;
 - (ii) The person is identified as a criminal gang member by a reliable source;
 - (iii) The person has previously been involved in criminal gang activity;
 - (iv) The person has adopted symbols, hand signs, or graffiti associated with a criminal gang;
 - (v) The person has adopted the display of colors or style of dress associated with a criminal gang;
 - (vi) The person is in possession of or is linked to a criminal gang by physical evidence such as photographs, rosters, membership documents, or

- electronic communication;
- (vii) The person has tattoos or markings associated with a criminal gang;
 - (viii) The person has adopted language or terminology associated with a criminal gang; or
 - (ix) The person appears in social media to promote a criminal gang.
3. Enacts new G.S. 15A-1340.16E to require any felony conviction (except for Class A, B1 or B2 felonies) involving gang activity to be sentenced at one class felony higher than the principal felony. For a felony committed by a gang leader or gang organizer, the sentence must be two classes higher than the principal felony.
 4. Amends G.S. 14-50.22 to clarify that a misdemeanor conviction involving gang activity must be sentenced one class higher than the principal misdemeanor, with a Class A1 misdemeanor becoming a Class I felony.
 5. Amends G.S. 14-50.19 and G.S. 14-50.20 to increase the punishment from a Class H felony to a Class G felony for someone to threaten or deter a person who is assisting another to withdraw from a gang, or to retaliate against someone for withdrawing from a gang. It is a Class F felony to physically injure a person with the intent to deter them from assisting someone to withdraw from a gang, or to physically injure a person in retaliation for withdrawing from a gang.
 6. Amends G.S. 14-50.42 to provide that evidence showing gang activity has occurred at any real property at least five times in a 12-month period is sufficient evidence to establish the presumption that the property owner, or renter of the property, knowingly permitted the criminal gang activity to continue. This evidence can be used in declaring the property a public nuisance.

The owner or renter of a piece of real property can overcome the above-referenced presumption that they are allowing gang activity to occur if the property owner or renter can show they have made a good faith effort to stop the criminal gang activity or to remove the criminal gang members from the property, such as by attempting to evict the criminal gang members or by trespassing them from the property.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

HOUSE BILL 176, Pensions Integrity Act of 2017, makes various changes to the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, and the State Health Plan. Among the changes, the law modifies G.S. 143-166.84, and allows sheriffs to transfer their sick leave accrued under the Local Governmental Employees' Retirement System to the Sheriffs' Supplemental Pension Fund, so that the sick leave would count towards the sheriffs' eligible service under the Sheriffs' Supplemental Pension Fund. If a sheriff transfers their sick leave between the two systems, the sheriff would have to transfer all of the sick leave, as opposed to a portion of it.

Effective: July 1, 2017 and expires on July 1, 2022.

[HOUSE BILL 224](#), Warrant Check of Inmate in Custody, modifies G.S. 15A-301.1(p) and requires a court, in all criminal cases where the defendant is in custody, to check for any outstanding warrants (and to notify the appropriate law enforcement agency of the location of that person) prior to entering any order of the court in the criminal case. This requirement previously applied to all defendants, not just to those in-custody.

Effective: December 1, 2017, and applies to orders entered on or after that date.

[HOUSE BILL 225](#), Property Taken Not Preclude Attempted Robbery, amends G.S. 14-87 and makes attempted robbery with a dangerous weapon a lesser included offense of robbery with a dangerous weapon. Evidence that is sufficient to prove robbery with a dangerous weapon is sufficient to also support a conviction of attempted robbery with a dangerous weapon.

This change is the result of *State v. McCoy*, which was decided in the North Carolina Court of Appeals in 2010. In this case, the Court held that attempted robbery with a dangerous weapon was NOT a lesser included offense of robbery with a dangerous weapon. The statutory change in this bill clarifies that evidence that is sufficient to prove robbery with a dangerous weapon is also sufficient to support a conviction of attempted robbery with a dangerous weapon.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[HOUSE BILL 229](#), GSC Technical Corrections 2017, makes numerous technical corrections throughout the General Statutes. Of interest to the criminal justice community, the bill amends G.S. 14-208.6 to include the crime of first-degree statutory rape (G.S. 14-27.24) in the list of offenses classified as a "sexually violent offense" for which a defendant must be placed on the sex offender registry.

Effective: December 1, 2015 (this effective date is not in error and reflects the original intent of the General Assembly to include this crime as a sexually violent offense retroactive to December 1, 2015).

[HOUSE BILL 243](#), Strengthen Opioid Misuse Prevention (STOP) Act, makes numerous changes to the General Statutes in an effort to address the misuse of opioids. Among those changes of interest to the criminal justice community:

1. This law amends G.S. 90-12.7 and allows a medical practitioner (for example a doctor or the State Health Director) to give any governmental or nongovernmental organization, including a local health department or a law enforcement agency, a "standing order" (presumably unlimited supply) for opioid antagonists, so that members of the organizations, including law enforcement officers, can administer the opioid antagonists to individuals suspected of an opioid overdose.

The law also allows agents of the governmental or nongovernmental organizations to give or distribute the opioid antagonists to opioid addicts and to family members or friends of individuals at risk for opioid overdose. Any time the organization distributes an opioid antagonist, the organization, through its agents, is required to provide basic instruction and information on how to administer the opioid antagonist. Any organization, or its agents, that distribute opioid antagonists under this law are immune from civil or criminal liability for administering or distributing the drug. These provisions of the law are effective July 1, 2017.

2. This law also amends G.S. 90–106 to limit the amount of opioids a doctor can prescribe to a single patient. Prescriptions of any Schedule II through Schedule III drug are limited to a 5-day supply for acute pain, and a 7-day supply for acute pain following a surgical procedure. A doctor is allowed to reevaluate the continued need for the drugs after another consultation with the patient because of continued pain. These provisions of the law are effective January 1, 2018.
3. Additionally, G.S. 90–113.74C is created and requires a medical practitioner that writes an initial prescription to review the information in the Controlled Substances Reporting System (“CSRS”) for the patient in question for the preceding 12-month period before prescribing any Schedule II through Schedule V drug. If the medical practitioner continues to prescribe the drug, the practitioner must check the CSRS every 3 months and must look back for the preceding 12-month period. This provision is effective June 29, 2017 and applies to acts committed 30 days after the date the State Chief Information Officer certifies that the upgrades to the CSRS database have been made and are fully operational within the Department of Information Technology, and are connected to the Statewide Health Information Exchange.

Effective: June 29, 2017

[HOUSE BILL 337](#), Unmanned Aircraft Systems Law Revisions, makes numerous changes to the laws regulating the use of unmanned aircraft systems (“UASs”). G.S. 15A-300.1 is amended to allow an emergency management agency to operate a UAS for all functions related to emergency management, such as area reconnaissance, search and rescue, damage assessment and hazard risk management.

G.S. 15A-300.1(d) is repealed which places restrictions on the use of imaging technology (such as infrared imaging) on private and commercial UASs. Currently, the use of imaging technology is limited to only scientific and farming operations. By eliminating these restrictions, the imaging technology can be used for other reasons, such as law enforcement activities.

G.S. 63-96 is amended and adopts the standards for the issuance of commercial drone operator permits established by the Federal Aviation Administration (“FAA”). Specifically, a permit for the commercial operation of a UAS can be issued to a person who is the minimum age required by federal regulations for the operation of a UAS (currently 16 years of age), the person has a valid government issued photographic identification acceptable to the FAA, and the person meets all other FAA regulations.

Finally, G.S. 63-94 is created and provides that the permitting and testing requirements for UASs established by the Division of Aviation of the North Carolina Department of Transportation do not apply to drones used solely for hobby or recreational purposes, as opposed to drones used for commercial or governmental purposes, which are subject to the permitting and testing requirements.

Effective: July 21, 2017

[HOUSE BILL 343](#), [Enforcement of DVPO on Appeal](#), amends G.S. 50B-4 to make a domestic violence protective order (“DVPO”) valid and enforceable while the DVPO is on appeal to the North Carolina Court of Appeals or the Supreme Court of North Carolina, unless one of these appellate courts enter an order stating that the DVPO cannot be enforced while the DVPO is being appealed.

Effective: October 1, 2017

[HOUSE BILL 362](#), [Changes to the Juvenile Code](#), makes numerous changes to the juvenile laws as they relate to a court’s evaluation of a juvenile’s case. Among these changes, G.S. 7B-404 is amended to provide that a magistrate is required to accept for filing petitions for nonsecure custody when the office of clerk of court is closed. This authority is limited to petitions that allege a juvenile is neglected, abused or dependent or when the assessment into allegations of abuse, neglect, or dependency by the Director of the Department of Social Services has been interfered with. The magistrate would be required to deliver the petition to the clerk of court’s office as soon as it is open for business, but the petition would be deemed “filed” when the magistrate accepts the petition. Previously, a magistrate was permitted to “draw, verify and issue” a juvenile petition at the request of the Director of the Department of Social Services if the magistrate received authorization to do so by the Chief District Court Judge and the clerk’s office was closed. The phrase “draw, verify and issue” had unclear meaning and this bill was intended to clarify that a magistrate’s responsibilities are to verify a petition by administering an oath and by accepting the petition for filing.

Effective: October 1, 2017

[HOUSE BILL 384](#), [Increase Penalties/Organized Retail Theft](#), amends G.S. 14-72.11 to expand the circumstances under which a person commits the Class H felony offense of “larceny from a merchant.” Under existing law, a person commits larceny from a merchant if they do any of the following: (i) take infant formula; (ii) take property worth over \$200; (iii) take merchandise by removing or destroying an antishoplifting device; or (iv) affix a fraudulent product code (swapping tags) to take the property. Amended G.S. 14-72.11 includes the act of exchanging stolen property for something of value in the offense of larceny from a merchant.

The bill also amends G.S. 14-86.6 to make it a Class G felony to conspire with another person to steal \$20,000 or more in retail property within a 90 day period, with the intent to sell the property, or to conspire with two or more people, while acting as an organizer or leader, with the purpose of selling or transferring stolen property.

The law makes numerous other changes to our currency converter laws. Among these changes of interest to the criminal justice community:

1. Amends G.S. 66-387 to include “e-buyers” as currency converters, and defines an e-buyer as a currency converter that is engaged in the business of “purchasing gift cards or merchandise cards online.” Currency converters are also defined as a person engaged in the business of purchasing goods from the public for cash at a permanently located retail store.
2. Amends G.S. 66-392 to require e-buyers to maintain detailed records, in English, which include: (i) a clear description of what was purchased; (ii) the name, address, and

telephone number or email address of the seller; (iii) the date of purchase, purchase price and value of the gift card or merchandise card; and (iv) the identification number or the internet protocol (IP) address of the seller, if available. Prior to making a purchase, the seller is required to provide to the e-buyer a statement attesting that the property is not stolen and that it is not subject to any liens or other encumbrances.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[HOUSE BILL 399](#), Stop Images Taken W/O Consent From Dissem, amends G.S. 14-190.5A and modifies the crime of “disclosures of private images.” Currently, an offender commits this crime if, for the purpose of humiliating or harassing a person, they disclose the image of another person’s private parts, or the image of a person engaged in sexual activity, under circumstances in which the offender should know the depicted person has a reasonable expectation of privacy (for example, the depicted person was in a personal relationship with the offender).

This law removes the requirement that the depicted person have a “reasonable expectation of privacy.” Instead, the crime would require that the offender obtained the image without the consent of the depicted person, or under circumstances that the depicted person expected the images to remain private.

Removal of the “reasonable expectation of privacy” standard broadens the offense beyond images obtained “within the context of a personal relationship” and the reasonable expectation of privacy element has been replaced with a showing that the victim “expected the images to remain private.”

An “image” is defined as a photograph, film, videotape, recording, live transmission, digital or computer-generated visual depiction, or any other reproduction that is made by electronic, mechanical, or other means.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[HOUSE BILL 464](#), Revise Schedule of Controlled Substances, amends G.S. 14-17 to expand the offense of second-degree murder to include the death of a drug abuser that is caused by the unlawful distribution and ingestion of a depressant, methamphetamine, or any opium, opiate, or opioid (including any preparation of these substances).

The bill also amends Chapter 90 and adds to the schedule of controlled substances: synthetic fentanyl, designer hallucinogenics, synthetic cannabinoids, system depressants and other substances.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

Effective July 18, 2017, the bill also creates the Task Force on Sentencing Reforms for Opioid Drug Convictions (“Task Force”). The Task Force is required to study and review cases of inmates who are incarcerated solely for convictions of opioid drug offenses and to consider options for reducing sentences for such individuals.

[HOUSE BILL 469](#), Regulation of Fully Autonomous Vehicles, creates new Article 18 in Chapter 20 of the General Statutes to regulate fully autonomous vehicles. G.S. 20-400 defines a fully autonomous vehicle as a motor vehicle equipped with an “automated driving system” that will not at any time require an occupant to perform any of the driving tasks while the automatic driving

function is engaged. An automated driving system is the hardware and software in the vehicle that allows the vehicle to operate independently on a sustained basis.

G.S. 20-401 allows an operator of a fully autonomous motor vehicle to operate the vehicle without a driver's license. The operator is the person that causes the automated driving system to engage and the vehicle to drive or travel autonomously. An operator does not include an occupant of the vehicle in control of such matters as trip scheduling or the selection of destinations.

Under G.S. 20-401 the vehicle registration card, either physically or electronically, must be in the vehicle and must be readily available to a law enforcement officer or inspector.

The parent or legal guardian of a minor riding in a fully autonomous vehicle is responsible for ensuring that the minor is properly restrained with a safety belt or child restraint seat. It is unlawful for any parent or guardian of a person less than 12 years of age to permit that person to occupy a fully autonomous vehicle in motion or which has the engine running unless the person is supervised by a person 18 years of age or older.

The registered owner of a fully autonomous vehicle is responsible for any moving violations of that vehicle. In addition, the law requires a fully autonomous vehicle to stop at the scene of an accident.

Pursuant to G.S. 20-403, the Fully Autonomous Vehicle Committee within the Department of Transportation is created. The Committee will consist of 18 members, including a representative of the North Carolina State Highway Patrol, the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police. The Committee will meet at least four times a year and will be tasked with reviewing fully autonomous vehicle technology, traffic rules and ordinances, and State motor vehicle laws. The Committee is required to make recommendations to the Department of Transportation and the General Assembly with respect to necessary changes to traffic rules, ordinances and State law in order to facilitate the use of fully autonomous vehicles. Effective: December 1, 2017, and applies to offenses committed on or after that date.

[HOUSE BILL 487](#), Nat. Guard Reemployment Rights/Definitions, amends G.S. 127A-201.1 and G.S. 127A-202 to clarify that an employer has an obligation to reemploy any National Guard member who has been released from active duty after having been called into service by the governor of a state. The protections given to National Guard soldiers and airmen under this bill are intended to apply to circumstances where the soldiers and airmen are called into service by the Governor of a state and are in addition to rights given to all military members, including National Guard members, under federal law when military members are called into service by the President of the United States or his designee.

The bill also amends G.S. 42-45 to allow National Guard members to terminate a lease agreement for a dwelling unit upon 30 days written notice if: (i) the Guard member has a change in duty station; (ii) is discharged or released from duty; or (iii) is deployed for a period of 90 days or more. The law also allows a Guard member's family to terminate a lease agreement for a dwelling unit if the Guard member dies while on active duty.

Effective: July 21, 2017, and applies to active duty commencing on or after that date and lease agreements entered into on or after that date.

[HOUSE BILL 559](#), Outdoor Heritage Enhanced, amends G.S. 103–2 and expands, with certain limitations set out below, hunting with firearms on Sunday to allow the hunting of upland game birds, such as quail, and migratory birds, such as ducks.

1. Any landowner or member of the landowner's family, or a person with written permission from the landowner, is allowed to hunt wild animals and upland game birds with the use of firearms on Sunday on private land, with the following exceptions:
 - (i) Hunting on Sunday between 9:30 AM and 12:30 PM is prohibited except on controlled hunting preserves.
 - (ii) A person cannot use a firearm to take deer that have been run or chased by dogs on Sunday.
 - (iii) A person cannot hunt on Sunday within 500 yards of a place of religious worship.
2. Subject to the rules established by the Wildlife Resources Commission, a person may hunt wild animals and upland game birds with the use of firearms on Sunday on public lands of the State with the following exceptions:
 - (i) Hunting on Sunday between 9:30 AM and 12:30 PM is prohibited.
 - (ii) A person cannot use a firearm to take deer that have been run or chased by dogs on Sunday.
 - (iii) A person may not hunt on Sunday within 500 yards of a place of religious worship.
3. Hunting migratory game birds on Sunday is prohibited unless allowed by rules of the Wildlife Resources Commission, with the following exceptions:
 - (i) Hunting on Sunday between 9:30 AM and 12:30 PM is prohibited, except on controlled hunting preserves.
 - (ii) A person may not hunt on Sunday within 500 yards of a place of religious worship.
 - (iii) The Wildlife Resources Commission cannot authorize the hunting of migratory birds on Sunday prior to March 1, 2018.

A violation of these standards of hunting on Sunday is a Class 3 misdemeanor.

4. G. S. 153A–129 is amended to allow a county to enact an ordinance prohibiting the hunting of wild animals, upland game birds and migratory birds on Sunday if there is a countywide referendum and a majority of those voting on the issue approve the ordinance, and if the ordinance: (i) applies to the entire county; and (ii) allows a hunter to retrieve an animal that was lawfully shot in an adjacent county. A county may adopt an ordinance to prohibit Sunday hunting prior to October 1, 2017, but any such ordinance will not become effective until October 1, 2017.

Effective: October 1, 2017

[HOUSE BILL 716](#), CMVs/Use of Platoons, amends G.S. 20-152 (following too closely) to provide that the laws regulating the distance between motor vehicles traveling on the road does not apply to a non-leading commercial motor vehicle traveling within a "platoon" on any roadway where the Department of Transportation has authorized travel by platoon through a traffic ordinance. The law defines a platoon as a group of individual commercial motor vehicles traveling at close following distances in a unified manner through the use of an electronically interconnected braking system.

Effective: August 1, 2017

[SENATE BILL 53](#), Law Enforcement Authority/Custody of Child, amends G.S. 50-13.5 to establish a process to enforce in state temporary child custody orders that is uniform with the current procedures used to enforce out of state temporary child custody orders. Amended G.S. 50-13.5 requires a court, whenever it issues a temporary child custody order in North Carolina that requires a law enforcement officer to take physical custody of a minor child, to also issue a warrant to take physical custody of the minor child. The bill also amends G.S. 50-13.3 to make a warrant to take physical custody of a child enforceable throughout the State. The Administrative Office of the Courts (AOC) has modified Form AOC-CV-667 in order to address this change to the law. A copy of this Form may be obtained from AOC at the following link:

<http://www.nccourts.org/Forms/Documents/1003.pdf>

Effective: October 1, 2017, and applies to orders for temporary custody on or after that date.

[SENATE BILL 55](#), School Bus Cameras/Civil Penalties, creates new G.S. 153A–246 to allow a county to adopt an ordinance authorizing the installment and operation of automated school bus safety cameras in any school bus located in that county, in order to identify motor vehicles failing to stop for a stopped school bus and to impose civil monetary penalties for violations. This does not eliminate the authority of law enforcement to charge for criminal violations for passing a stopped school bus. Those provisions of new G.S. 153A–246 of interest to the criminal justice community are:

1. An automated school bus safety camera is defined as a device that is affixed to a school bus that is synchronized to automatically record photographs or video of a vehicle passing a stopped school bus.
2. An ordinance that authorizes the installation and operation of automated school bus safety cameras does not apply to any violation for passing a stopped school bus that results in injury or death. Cases involving injury or death will be resolved in criminal court exclusively.
3. Citations issued to violators are purely civil in nature, resulting in civil monetary penalties, but do not result in driver's license points or insurance points.
4. The registered owner of a vehicle is responsible for a violation unless the vehicle was, at the time of the violation, in the custody or control of another person, or unless the citation was not received by the registered owner within 60 days after the date of the violation.

5. A motorist wishing to contest a civil citation must request a hearing in writing within 30 days after receiving the citation. The request for a hearing must also contain an affidavit stating the basis for contesting the civil citation.
6. If the civil monetary penalty is not paid by the registered owner, or if the penalty is not contested in a timely manner, the Division of Motor Vehicles is required to not register the motor vehicle. This provision is effective July 25, 2018 and applies to civil penalties not paid on or after July 25, 2017.
7. The civil penalty for a first violation is \$400 and the civil penalty for a second violation is \$750. A third and all subsequent violations carry a \$1000 civil penalty for each subsequent violation.
8. A county is authorized to send citations via first-class mail to the registered owner of the vehicle. If a registered owner contests the citation, the county is required to issue a summons notifying the registered owner of the date, time and location of the nonjudicial, administrative hearing.
9. A person who receives an adverse decision following an administrative hearing has a right to appeal the decision. The notice of appeal must be filed in the office of the clerk of superior court within 10 days of service of the adverse decision. All appeals are heard in the district court division.
10. If the person charged with a violation of the ordinance is also charged with the criminal offense of passing a stopped school bus in violation of G.S. 20-217, the charging law enforcement officer is required to provide written notice to the county office responsible for processing civil citations of the individual's criminal charge. The county has an obligation to provide each law enforcement agency in its jurisdiction with the name and address of the county official responsible for these civil penalties so that proper notification can be given.
11. After receiving notice of a criminal charge for passing a stopped school bus, the county cannot impose a civil penalty against the person for the same violation, and the county is required to issue a full refund of any civil penalty paid by the person, along with interest.

The law also creates new G.S. 115C-242.1 to require any video or photographs of motor vehicle violations to be provided to law enforcement as potential evidence for a criminal charge of passing a stopped school bus. The law authorizes a local board of education, board of county commissioners, and any law enforcement agency in the county to enter into inter-local agreements for the installation and operation of automated school bus safety cameras.

Any county that adopts an ordinance to allow for penalties for passing a stopped school bus is required to maintain records of all violations. Upon request, the county is required to provide at least five years of those records to the North Carolina Child Fatality Task Force and the North Carolina General Assembly.

Within 90 days after this bill becomes law, the State Board of Education is required to develop a model request for proposals and a model contract that can be used by the local boards of education in entering into contracts for the installation and operation of automated school bus safety cameras.
Effective: July 25, 2017

[SENATE BILL 74](#), Update Rabies Control Laws, amends G.S. 130A-197 and modifies current law on how animals such as dogs, cats and ferrets are handled when they are suspected of being rabid. The law removes the requirement that the animal be destroyed or vaccinated in a timely manner and instead adopts the recommendations and guidelines set out by the National Association of State Public Health Veterinarians in the most current edition of the Compendium of Animal Rabies Prevention and Control.

This Compendium is available at:

<http://www.nasphv.org/Documents/NASPHVRabiesCompendium.pdf>

Effective: October 1, 2017

[SENATE BILL 88](#), Landlord/Tenant – Alias & Pluries Summary Eject., modifies G.S. 7A-223 and provides that in summary ejectment cases which include a demand for money damages, if the service of process has been achieved solely by first-class mail and affixing the summons and complaint to the premises (and not by personal service on the defendant), then the plaintiff (landlord) can ask the magistrate to separate the claim for summary ejectment from the claim for money damages.

If personal service is not obtained on one or more of the defendants, an alias and pluries summons can be issued to be served on the defendant in the claim for money damages. The alias and pluries summons must first be delivered to the sheriff for service upon the defendant in the claim for money damages. If the alias and pluries summons is returned by the sheriff unserved, the plaintiff can then have the summons served by a private process server.

Effective: October 1, 2017

[SENATE BILL 100](#), Aerial Adventure Financial Responsibility, enacts new Article 47 of Chapter 66 of the General Statutes, which regulates liability insurance coverage for the operation of zip lines and challenge courses. New G.S. 66-451 requires the owner or operator of any zip line or challenge course to obtain liability insurance in the amount of one million dollars per occurrence and two million dollars in the aggregate.

New G.S. 66-452 specifically exempts from this liability insurance requirement any zip line or challenge course operated at a private residence that is not open to the public or a zip line or challenge course operated by the State, city or county. Therefore, zip lines and challenge courses operated for law enforcement training purposes are exempt from the liability insurance requirement.

Effective: June 1, 2018

[SENATE BILL 131](#), Regulatory Reform Act of 2016, makes numerous regulatory changes to various businesses and entities in North Carolina. Those changes of interest to the criminal justice community are:

1. Effective October 1, 2017, amends G.S. 143-254.5 and G.S. 143B-289.52 to require the North Carolina Wildlife Resources Commission and the North Carolina Division of Marine Fisheries, respectively, to treat customer e-mail addresses and commission issued customer identification numbers as confidential information. This information is not public record and is now protected the same as a customer's social security number, date of birth, telephone number and residence address.
2. Effective July 1, 2017, amends G.S. 132-6 and G.S. 132-6.1 to allow a public agency to satisfy the requirement to provide access to public records and computer databases by making those public records and computer databases available on-line in a format that allows a person to download the public record or computer database to get a copy of the record. A public agency that provides access to public records on-line is not required to provide copies through any other method or medium. However, if a public agency maintains a computer database online and also maintains a nondigital copy of that database, the nondigital copy is subject to inspection upon a public records request.
3. Amends G.S. 143-215.107A to continue the requirement for motor vehicle emissions testing only in the following counties: Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, New Hanover, Onslow, Randolph, Rockingham, Rowan, Union and Wake. The requirement for motor vehicle emissions testing is removed in 26 other counties.
4. Amends G.S. 20-183.2(b) to require emissions testing on vehicles that: (i) are a model year within 20 years of the current year, and older than the three most recent model years; or (ii) are a model year within 20 years of the current year and the vehicle has 70,000 or more miles on the odometer.

The provisions concerning motor vehicle emissions summarized in paragraphs 3 and 4 above are effective on the later of the following dates:

- (a) October 1, 2017; or
 - (b) The first day of a month that is 60 days after the United States Environmental Protection Agency approves the changes in this emissions testing program.
5. Effective May 4, 2017, amends G.S. 14-419 to authorize a law enforcement officer or animal control officer that has probable cause to believe a person is in unlawful possession of a venomous reptile, large constricting snake or a crocodylian, to kill the reptile without first consulting with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park if the officer determines there is an immediate risk to public safety. The bill also requires the North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission to jointly study and develop procedural and policy changes to improve the regulation of venomous reptiles, large constricting snakes and crocodylians.

[SENATE BILL 155](#), [ABC Omnibus Legislation](#), makes numerous changes to the alcoholic beverage laws in the State. Those changes of interest to the criminal justice community are:

1. Effective June 30, 2017, enacts new G.S. 18B-1114.7 to allow the holder of a distillery permit to obtain a spirituous liquor special event permit that allows the distillery to give free tastings of its liquors at trade shows, conventions, balloon races, and similar events approved by the North Carolina Alcoholic Beverage Control Commission.
2. Effective October 1, 2017, enacts new G.S. 18B-1002.1 to allow an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission to obtain a permit to sell wine and certain spirituous liquors, such as antique spirituous liquors or decorative decanters of spirituous liquors, at auctions.
3. Effective June 30, 2017, amends G.S. 18B-1004 to allow establishments that sell alcoholic beverages for immediate consumption, such as restaurants, to sell alcoholic beverages beginning at 10:00 AM on Sunday, if authorized by a city or county ordinance where the establishment is located.
4. Effective July 1, 2017, amends G.S. 18B-1105 to allow distillers to sell up to five bottles of spirituous liquor (previously one bottle) to a consumer in a 12 month period.
5. Effective June 30, 2017, amends G.S. 18B-1104 to allow the holder of a brewery permit to give its products to customers, visitors and employees for consumption on premises. Previously, breweries could give its products for consumption on premises only to employees and guests. In addition, the holder of a brewery permit may also sell any other alcoholic beverages (in addition to malt beverages) that are approved by the North Carolina Alcoholic Beverage Control Commission.
6. Effective June 30, 2017, creates new G.S. 18B-1121 to allow any agent or employee of a commercial permittee (such as a commercial distillery or brewery) to sample free of charge the alcoholic beverages it is licensed to sell for purposes of quality control, sensory analysis or educational purposes.
7. Effective June 30, 2017, amends 18B-1104 to allow a farm to obtain a special brewery permit to allow the farm brewery to manufacture and sell malt beverages that are made from its agricultural products, such as barley and hops. The malt beverages may be sold on-premises and can be consumed either on or off-premises.

[SENATE BILL 160](#), [Handicap Parking Privilege Certification](#), amends G.S. 20-37.6(c1) to allow licensed physician assistants and licensed nurse practitioners to make the certifications for a handicapped parking privilege. Current law also allows physicians, ophthalmologists, optometrists and the Division of Services for the Blind to make these certifications. The bill also allows a licensed certified nurse midwife to make the certification that a person is handicapped for purposes of obtaining a temporary removable handicapped windshield placard.

Effective: July 12, 2017

[SENATE BILL 181](#), [Electronic Notice-Guilford County](#), makes numerous changes to the laws concerning the publication of legal notices in [Guilford County](#). These changes may be of interest to civil process deputy sheriffs across North Carolina since in the future this law may be considered for expansion beyond Guilford County to other counties.

1. This law allows Guilford County and any municipality located in that County to publish any legal notice electronically if an ordinance is enacted by the Guilford County Board of Commissioners or an appropriate city council authorizing electronic filing. This electronic publication may be in lieu of or in addition to the required print publication or advertisement.
2. The County Commissioners, or city council as appropriate, are required to publish specific instructions regarding how to access notices published electronically at least once a month for 12 months in a newspaper having general circulation for that jurisdiction.
3. Ordinances allowing for electronic publication may not supersede any general law or local act that requires notice by mail to certain persons or classes of persons, or the posting of signs on certain property.
4. Additionally Guilford County is allowed, in the discretion of the Board of County Commissioners, to adopt an ordinance establishing the county Web site as a central location for publishing and advertising legal notices.
5. A county employee's sworn written statement is sufficient evidence that the county placed the notice, paper, document, or legal advertisement on its Web site for the stated period of time.

Effective: December 1, 2017, and applies to notices published on or after that date.

[SENATE BILL 182](#), [Prohibit Use of Light Bars on Motor Vehicles](#), modifies G.S. 20-130 and prohibits a person from driving a motor vehicle on any public roadway while illuminating the lights on a "light bar lighting device." A light bar lighting device is defined as a bar-shaped lighting device made up of multiple lamps that are capable of projecting light with an intensity greater than 25 candlepower. This restriction would not apply to ambulances, law enforcement and fire department vehicles, other emergency vehicles, and motorcycles. In addition, this restriction would not prohibit the use of a light bar lighting device with strobing lights.

Effective: October 1, 2017, and applies to offenses committed on or after that date.

[SENATE BILL 217](#), [Richmond/Right of Way Safety](#), is a local bill that makes it a Class 3 misdemeanor to shoot a firearm or bow and arrow, or to attempt to do so, from, on, across, or over a roadway or right-of-way of any public road in Richmond County. This crime is applicable only to Richmond County and is enforceable by Wildlife Resources Commission officers, and any other law enforcement officer with general subject matter jurisdiction.

Effective: October 1, 2017, and applies to offenses committed on or after that date.

[SENATE BILL 344](#), [Combine Adult Correction and Juvenile Justice](#), amends Article 13 of Chapter 143B of the General Statutes by adding Part 1A to consolidate the Division of Adult

Correction and the Division of Juvenile Justice into a single division within the Department of Public Safety. The bill amends G.S. 143B-800 to create the Juvenile Justice Section within the new Division of Adult Correction and Juvenile Justice. The Division's new name is the Division of Adult Correction and Juvenile Justice (DACJJ).

Effective: July 25, 2017

[SENATE BILL 384](#), [Criminal Law Changes](#), makes numerous changes to the criminal laws in the State and makes changes to adequately fund the Sheriffs' Supplemental Pension Fund. Among these changes:

1. G.S. 14-7.1 is amended to clarify that a "felony offense" for purposes of determining if a person is a habitual felon includes: (1) any felony crime in North Carolina; (2) any felony crime that a defendant was found guilty of in another state that is substantially similar to a felony offense in North Carolina, regardless of the sentence imposed on the defendant in the other state; (3) a conviction in another state not classified as a felony but which would carry a punishment of more than one year in prison for a crime that is substantially similar to a felony offense in North Carolina; and (4) any conviction that is a felony under federal law with the exception of certain federal felonies involving "intoxicating liquors." A habitual felon is a person who has been convicted of or pled guilty to three felony offenses. This change is effective December 1, 2017, and applies to any offense committed on or after that date and that is the principal felony offense for a charge of being a habitual felon.
2. G.S. 14-7.25 is amended and provides that the offense of habitual breaking and entering is committed if a person commits a breaking or entering offense with the intent to terrorize or injure an occupant of the building. The bill does not define the term "terrorize." This amendment is effective December 1, 2017, and applies to offenses committed on or after that date.
3. G.S. 15A-502 is amended and provides that a court is required to order a defendant to be fingerprinted when a person is charged with an offense that requires fingerprinting, but the defendant was not arrested for the crime. The court is required to order the defendant to submit to fingerprinting by the sheriff or other appropriate law enforcement agency at the earliest practical opportunity. The court is authorized to hold the defendant in contempt of court for failing to comply with an order to submit to fingerprinting. This amendment is effective December 1, 2017.
4. G.S. 15A-304 is amended to provide that a judicial official is required to issue a criminal summons charging an individual with a criminal offense instead of a warrant for arrest if the probable cause to support the criminal charge is based solely upon the affidavit of a person who is not a sworn law enforcement officer.

However, a judicial official may issue a warrant for arrest based on the affidavit of a person who is not a sworn law enforcement officer if: (i) there is corroborating testimony from a sworn law enforcement officer or at least one disinterested witness; (ii) the judicial official finds that obtaining an investigation of the alleged offense by a law enforcement agency would constitute a substantial burden for the complainant; or (iii) the judicial official finds

that certain factors exist in the case, such as the defendant poses an imminent danger to the public or the defendant has a history of failing to appear before the court.

This amendment is effective December 1, 2017, and applies to warrants issued on or after that date.

5. G.S. 143-166.82 is amended to create a provision that will fully fund the retirement benefits for retired sheriffs from the Sheriffs' Supplemental Pension Fund (Fund).

The Sheriffs' Supplemental Pension Fund was enacted into law in 1985 to provide supplemental pension benefits for eligible county sheriffs who are retired from the Local Governmental Employees' Retirement System ("LGERS"). Eligible sheriffs are those who have retired from the Local Governmental Employees' Retirement System and who are 55 years of age or older or have 30 years of creditable service regardless of age (or been approved for disability benefits), and who have completed at least 10 years of service as sheriff. Currently, the money for the Fund is supplied by a small portion of court costs, which are at an all-time low resulting in reduced benefits for eligible retired sheriffs.

Under the new law, in any year in which the court cost funds in the Fund are insufficient to pay the full benefits owed to eligible retired sheriffs, the North Carolina Department of Justice will bill each county on a pro-rata basis (based on county population) for the amount of the additional funds needed to pay the benefits owed from the Fund.

The legislation specifies that counties may use their portion of the civil process service fees that is not required by statute to be used to ensure the timely service of process within the county, or any other funds of the county, to pay the county's contribution to the Fund.

Each eligible retired sheriff will be entitled to a benefit from the Fund that, when added to the retired sheriff's retirement benefit from LGERS will be equal to 75% of the sheriff's annual salary at retirement.

However, each retired sheriff's payment from the Fund cannot exceed \$18,000 per year [\$1,500 per month] and each retired sheriff's payment from the Fund cannot exceed 100% of the sheriff's annual salary at retirement when the payment from the Fund is added to the retired sheriff's benefit from LGERS and the retired sheriff's special separation allowance benefit earned pursuant to G.S. 143-166.42.

These changes will apply to benefits paid from the Fund on and after January 1, 2018.

[SENATE BILL 410, Marine Aquaculture Development Act](#), creates a new Article 16A of Chapter 113 of the General Statutes, which requires the Division of Marine Fisheries of the Department of Environmental Quality to set standards for marine aquaculture. New G.S. 113-215 defines marine aquaculture as the propagation and rearing of marine aquatic species in controlled or selected environments, such as the operation of marine hatcheries and fish farming operations in North Carolina.

Enacts G.S. 113-217 to make it a Class 1 misdemeanor for any aquaculture business to provide false information to the Division of Marine Fisheries, such as falsifying the amount of a harvest.

In addition, enacts G.S. 113-218 to make it a crime to steal from a marine aquaculture business. Anyone who unlawfully takes marine species from an aquaculture business without the permission of the owner of the business is guilty of a Class A1 misdemeanor, and may be fined up to \$5,000.
Effective: October 1, 2017

[SENATE BILL 445](#), Expungement Process Modifications, makes numerous changes to the various expunction laws to standardize the filing process for expungements. The law also amends G.S. 15A-150 to require the clerk of superior court to send a certified copy of an expunction order to the Combined Records Section of the Department of Public Safety and to the State Bureau of Investigation. Currently, the clerk of superior court is only required to send copies of expunctions to the arresting law enforcement agency, the Division of Motor Vehicles, and to any other State or local agency that has a record of the offense that is to be expunged.

Additionally, G.S. 15A-151 and G.S. 15A-151.5 are amended to allow prosecutors to have electronic access to confidential expunction files maintained by the Administrative Office of the Courts if the record was expunged on or after July 1, 2018. This only applies to the expungement of the following:

1. Misdemeanor convictions for first offenders under the age 18, including certain gang offenses.
2. Felony convictions for first offenders under the age 18 that committed a nonviolent felony.
3. Expunged convictions for first offenders under the age 21 convicted of certain drug offenses and toxic vapor offense.
4. Expunged records of certain offenders convicted of prostitution.
5. Expunged records where the charges were dismissed.
6. Expungement of felony or misdemeanor records where expunction was obtained without consideration of the age of the offender.

The expunged records may be used to calculate a prior record level if the offender is convicted of a subsequent offense.

Effective: December 1, 2017, and applies to petitions filed on or after that date.

[SENATE BILL 547](#), Restitution Remission/Notice and Hearing Req, enacts new G.S. 15A-1340.39, which requires a district or superior court to provide 15 days advance written notice to the district attorney and the victim of a crime, notifying them of the right to be heard before entering an order excusing a criminal defendant from paying restitution owed to the victim. The notice must specify the date and time of the hearing and must advise the victim of the right to object to the remission of all or part of the restitution owed.

Effective: December 1, 2017, and applies to orders for remission entered on or after that date.

[SENATE BILL 548](#), Strengthen Human Trafficking Laws/Studies, amends G.S. 14-43.11, effective December 1, 2017 and applying to offenses committed on or after that date, increasing the penalty for the human trafficking of an adult to a Class C felony (previously a Class F felony).

If the victim is a minor, the law increases the penalty to a Class B1 felony (previously a Class C felony).

The bill amends G.S. 90-634, effective December 1, 2017 and applying to offenses committed on or after that date, to make it a class 1 misdemeanor for any person, association, partnership, or corporation to employ a person to perform massage or bodywork therapy, such as soft tissue massage, that is not licensed by the North Carolina Board of Massage and Bodywork Therapy.

Effective October 1, 2017, the bill amends G.S. 14-202.11 to prohibit the practice of massage and bodywork therapy in any “adult establishment.” An adult establishment is currently defined in G.S. 14-202.10 to include adult bookstores, adult motion picture theatres, and adult “live” entertainment businesses (commonly known as “strip clubs”).

[SENATE BILL 582](#), [Agency Technical Corrections](#), makes various budget and State agency technical corrections. The provisions of this law of interest to the criminal justice community are:

1. Effective July 1, 2017, the law allows an inmate employed in the “Prison Industry Enhancement Program” (a program where private employers employ inmates on-site at a prison to make goods) to receive workers’ compensation benefits for an injury suffered while working in the Program. This does not apply to State inmates held in county jails pursuant to the Statewide Misdemeanant Confinement Program (SMCP) who are injured while working in county work programs.
2. Effective July 1, 2017, the North Carolina Attorney General is not allowed to delegate his duties to represent the State in criminal appeals to any district attorney’s office or to any other entity.
3. The law provides that misdemeanors must be “charged” within two years of the commission of the offense. The statute of limitations will stop running when a person is charged with the misdemeanor by any type of criminal process, such as an order for arrest or an arrest warrant. Currently, State law states that the misdemeanor must be presented for grand jury action within two years of the commission of the crime in order to stop the running of the statute of limitations.
Effective: December 1, 2017, and applies to offenses committed on or after that date.
4. The law includes 2-[(dimethylamino)methyl]-1-(3methoxyphenyl)cyclohexanol and its salts, optical and geometric isomers, and salts of these isomers (including Tramadol) in the list of Schedule IV controlled substances.
Effective: December 1, 2017, and applies to offenses committed on or after that date.
5. Effective October 8, 2017, “farmers markets” are removed from the list of authorized locations where the holders of certain unfortified wine permits could give free tastings or sell wine.
6. Finally, effective October 8, 2017, a law enforcement officer is allowed to testify as an expert witness based on the results of a Horizontal Gaze Nystagmus (HGN) Test when the test is administered in accordance with the person’s training. The officer’s expert HGN

testimony is limited to whether a person was impaired. The officer's HGN testimony may not relate to the specific concentration level of any impairing substance. This change in the law eliminates the need for a witness to be qualified as an expert in the principles and methodology of the HGN Test in order to testify as to the results of a HGN Test.

[SENATE BILL 600](#), Britny's Law: IPV Homicide, amends G.S. 14-17 and creates a presumption that a murder is a premeditated killing and therefore would constitute first degree murder if the murder is committed by a defendant in a "personal relationship" with the victim, as that term is defined for purposes of a domestic violence protective order, and if the defendant has previously been convicted of one of the following crimes involving the same victim:

1. A crime involving domestic violence as defined in G.S. 50B-1(a) or the violation of a domestic violence protective order;
2. Communicating threats;
3. Stalking or cyberstalking; or
4. Domestic criminal trespass.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[SENATE BILL 628](#), Various Changes to the Revenue Laws, amends G.S. 105-236(a) to create a Class G felony offense for anyone to knowingly use the identifying information of another person (such as the person's legal name, date of birth or social security number) to make a false submission to the North Carolina Department of Revenue in order to obtain anything of value. If the person whose information was unlawfully used is financially impacted because of the false filing, then the person who made the submission is guilty of a Class F felony.

Effective: December 1, 2017, and applies to offenses committed on or after that date.

[SENATE BILL 694](#), Further Modifications to Appointments, makes numerous appointments to State commissions and boards. Among those of interest to the criminal justice community are:

The Speaker of the House of Representatives makes the following appointments:

1. Sheriff Hans J. Miller of Onslow County is appointed to the Domestic Violence Commission for a term expiring on August 31, 2018, to fill the unexpired term of Charles Campbell.
2. Michael J. Reitz of Chatham County is appointed to the 911 Board for a term expiring on December 31, 2018, to fill the unexpired term of Deputy Chief Dinah Jeffries.

The President Pro Tempore of the Senate makes the following appointment:

1. William M. (Marc) Nichols of Wake County is reappointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2020.

A correction is also made for the appointments of Benjamin J. Curtis of Rockingham County and Sheriff Ernie L. Coleman of Beaufort County to the Governor's Crime Commission to clarify that their terms expire on February 28, 2019.

Additionally, a correction is made for the appointment of James S. Stewart of Hoke County to the 911 Board to clarify that his term expires on December 31, 2018.

The **Final Legislative Report** is provided at no charge as a service to the sheriffs, criminal justice community and citizens of North Carolina.

North Carolina Sheriffs' Association, Inc.

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Unmanned Aircraft Systems In North Carolina

North Carolina Sheriffs' Association



***John J. Aldridge, III, NCSA Assistant General Counsel
December 2017***

UNMANNED AIRCRAFT SYSTEMS IN NORTH CAROLINA

Introduction

Small unmanned aircraft systems, commonly referred to as drones, have dramatically increased in popularity in North Carolina and the nation. Drones have been shown to be a favorite hobby for many individuals but have taken on a much more practical tool in the hands of surveyors and government agencies.

Their worth was highlighted during the recent hurricane, and subsequent floods, that ravaged Eastern North Carolina. Drones were invaluable in the hands of law enforcement and emergency management officials by surveying the extent of flooding and by dropping personal flotation devices to stranded residents.

This publication is intended to be an overview of the laws, both State and federal, that regulate the use of drones.

This publication is current as of December 1, 2017 to reflect the most recent revisions to North Carolina law on drones set out in House Bill 128, Prohibit Drone Use over Prison/Jail.

Unmanned Aircraft Systems

What is an unmanned aircraft system (UAS)? An unmanned aircraft is one that is operated without the possibility of human intervention from within or on the aircraft. An UAS includes not only the aircraft (drone) but also any associated components that control the aircraft (for example, the controller used by the operator on the ground).

Obviously enough, restrictions on a UAS do not apply to any type of aircraft that is operated with a person either inside or on the aircraft. For example, a motor driven "ultralight" aircraft.

Both State and federal law govern the operation of drones.

State Authority - The North Carolina Department of Transportation, Division of Aviation, (DOT/DOA) has the authority to develop and administer a UAS knowledge test, and to set up a system to issue permits to operate a UAS.

The DOT/DOA is responsible for:

1. The UAS knowledge test.

2. Issuing North Carolina commercial and governmental UAS operator permits.
3. Serving as the point of contact for all State related UAS issues.

The DOT/DOA is not responsible for:

1. Granting airspace use authorizations.
2. Granting UAS pilot certifications.
3. Federal Aviation Administration (FAA) commercial licensing.
4. UAS airworthiness standards.

Federal Authority - Because a UAS is still considered an aircraft, it is subject to the regulations of the FAA. The FAA is solely responsible for regulating airspace. The FAA has the responsibility to establish requirements for UAS operations and for giving UAS operators authority to operate in United States airspace. The FAA has the authority to enforce all existing aircraft regulations on unmanned aircraft systems, including those that are used as a hobby. The FAA however cannot require the registration of drones used by hobbyists. See: Taylor v. Huerta, 856 F. 3d 1089 (D.C. Cir. 2017). For example, while the FAA rules cannot require a hobbyist drone be registered, the FAA rules would prohibit the careless and reckless operation of a UAS used by a hobbyist to interfere with a manned aircraft.

The FAA and North Carolina recognize three types of UAS operations:

1. Recreational operations (model aircraft);
2. Government operations (public aircraft used by law enforcement and emergency management officials);
3. Commercial operations (civil aircraft).

RECREATIONAL OPERATIONS

Drones purchased and used solely for hobby or recreational purposes, and when nothing of value is provided to the operator of the UAS for either its use or images produced by the aircraft, are not subject to State and federal licensure requirements.

A model aircraft is one that is either mechanically driven or launched into flight (a motor propels the aircraft or it is thrown to begin its flight) and is used solely for hobby or recreational purposes. The UAS cannot be used for payment, consideration, gratuity, or benefit by any person for the use of the aircraft or for photographic or video images produced by the aircraft.

Recreational UAS users do not have to take the State knowledge test or obtain a permit to operate a UAS.

FAA has set guidelines for the recreational use of a UAS. The key points are:

1. Never fly above 400 feet above ground level (AGL);
2. Always fly within your visual line of sight;
3. Do not fly within 5 miles of an airport without first coordinating with the air traffic management authority;
4. Do not fly above stadiums or public events;
5. Do not fly for compensation;
6. Only fly a UAS that weighs less than 55 pounds; and
7. Do not fly at night, even if the UAS is equipped with lights.

However, recreational UAS operators must still comply with North Carolina laws regarding the use of a UAS. For example, a recreational operator of a UAS would not be able to fly over another person's property without their consent or interfere with hunting or fishing activities (State UAS restrictions are discussed later in this publication).

GOVERNMENT AND COMMERCIAL OPERATIONS

Using a UAS for any purpose other than recreation is subject to both FAA and North Carolina regulations. Anyone who uses a UAS in North Carolina for any purpose other than recreation (Government or Commercial Operations) must take and pass the DOT/DOA knowledge test prior to operating a UAS in North Carolina.

For example, if someone flies a UAS for fun and in the process of flying the UAS takes a picture that is later sold or used to promote a business or product, then the flight would be defined as a commercial flight and consequently the operator would have to be licensed both federally and by the State as a commercial UAS operator.

GOVERNMENT OPERATIONS

Particular standards are established under State and federal law for drones used in government operations. These standards apply to government operations such as law enforcement, emergency medical services, or geological surveys, regardless of the type of UAS flown or the types of cameras or sensors on the UAS.

Any law enforcement agency who intends to use a UAS must first have the UAS operator take and pass the DOT/DOA knowledge test. The only exception from taking this test is for people operating a UAS under the authority of a federal agency (for example military personnel).

Before operating a UAS for either government or commercial purposes, the operator must have authorization from the FAA to use the airspace and be authorized by the DOT/DOA to operate the UAS.

Anyone who wants to use a UAS for government purposes must apply for and receive from the FAA a Public Use Certificate of Authorization (COA) before operating a UAS. To

apply for a Public Use COA, operators must submit proof to the FAA that they are part of a public agency before completing the FAA's COA application process. Government operators must register their UAS with the FAA and obtain an "N-number" to be affixed to the UAS prior to operating the drone.

COMMERCIAL OPERATIONS

Any use of a UAS that is not conducted for recreational purposes or for government purposes mentioned above, would be subject to the provisions of State and federal law that regulate commercial UAS operations. Anyone operating a UAS for commercial purposes must pass the DOT/DOA knowledge test and obtain the correct COA permit from the FAA.

Authorization to operate a UAS for commercial purposes is granted under Section 333 of the Modernization and Reform Act of 2012. Under this federal law the United States Secretary of Transportation is given the authority to issue waivers to allow for commercial operations of a UAS in the national airspace. This civil certificate of authorization authorizes the commercial use of a UAS.

Once the commercial operator of a UAS receives their COA, the operator would apply for and receive from the FAA an "N-number" for the UAS and the operator would register the UAS with the FAA. Currently, UASs operating in the national airspace for commercial purposes must be registered with the FAA and operated by a licensed pilot.

North Carolina Authorizations to Operate a UAS

Once the operator of a UAS has obtained either a government or commercial COA from the FAA, as appropriate, the individual must also receive North Carolina authorization to operate a UAS for government or commercial purposes. This means that the individual must take and pass the North Carolina knowledge test and receive from the DOT/DOA either a commercial or a government UAS operator permit. Operators must keep their permit, a copy of any applicable FAA airspace use authorization, and a valid form of government issued ID (such as a drivers license) in their possession at all times while operating a UAS in North Carolina.

Additionally, in North Carolina, UAS operators are required to get permission from the owner of any property they intend to launch a UAS from or recover the UAS in.

FAA Restrictions and Airspace

Once a UAS is registered with the FAA and the operator of the UAS is authorized to operate the UAS by both the FAA and the DOT/DOA, the operator of the UAS must also be familiar with the various types of airspace and flight restrictions that are imposed by the FAA. These airspace restrictions apply to the altitude that a UAS can be flown and

would also address what geographical areas and locations a UAS could or could not be flown over or near, such as military installations.

A detailed discussion of FAA airspace and flight restrictions is beyond the scope of this publication. However, detailed information on these restrictions can be found by accessing the FAA website or by contacting FAA officials. The FAA contact information is:

FAA Contact Information

- For questions in reference to UAS Certificates of Authorization, Waivers, or Section 333 Exemptions, contact the [FAA UAS Program Office](#).
- For general questions, comments, or complaints about UAS, please [email](#) the FAA.
- For general questions regarding federal aviation regulations or enforcement, contact the FAA Flight Standards District Offices in Greensboro, at (336) 369-3900, or in Charlotte, at (704) 319-7020.
- Additional relevant information can also be viewed at:
<https://www.ncdot.gov/aviation/uas/>

North Carolina Restrictions on Unmanned Aircraft Systems

North Carolina law has specific restrictions on the use of a UAS that apply to all UASs, whether they are used for recreational purposes, government purposes or commercial purposes.

It is a felony in North Carolina to willfully damage, disrupt the operation of, or otherwise interfere with a manned aircraft through the use of a UAS while the manned aircraft is taking off, landing, in-flight or otherwise in motion. Anyone who endangers the airspace in this manner can also be subject to criminal charges under federal law. N.C. Gen. Stat. § 14–280.3.

It is also a felony to possess or use a UAS with a weapon attached to it. N.C. Gen. Stat. § 14–401.24. Prohibited weapons that could not be attached to a drone would include any type of weapon that is generally restricted from being carried concealed in North Carolina such as handguns, any weapon of mass death and destruction or any other object capable of inflicting serious bodily injury or death when used as a weapon.

Additionally, under N.C. Gen. Stat. § 113–295, it is a misdemeanor for a UAS operator to intentionally interfere with a lawful hunting or fishing activity or to intentionally harass or disturb wildlife to disrupt lawful hunting or fishing. It is also illegal to take or abuse property, equipment, or hunting dogs that are being used for lawful hunting or fishing.

Many different North Carolina laws could be violated by a UAS operator for the same activity. For example, if a UAS operator flies a drone over the property of another person without their permission and uses a camera to take photographs inside the home without permission, the individual may be subject to the UAS laws and also be charged with the crime of secret peeping under N.C. Gen. Stat. § 14–202(c).

Use of UASs around Confinement Facilities

N.C. Gen. Stat. § 15A–300.3 regulates the use of UASs near local, State, and federal confinement facilities. Unless one of the below exceptions is met, no person or entity, including any State agency, is able to use a UAS within either a horizontal distance of 500 feet, or a vertical distance of 250 feet, from any local, State or federal confinement facility. The horizontal distance is measured from the furthest exterior building walls, perimeter fences, and permanent fixed perimeter, or from another boundary clearly marked with posted notices prohibiting the use of a UAS.

These restrictions do not apply to:

1. A person operating a UAS with written consent from the official in charge of the confinement facility.
2. Law enforcement officers operating a UAS while discharging their official duties.
3. A public utility or commercial entity, as long as:
 - i. The UAS is not used within either a horizontal or vertical distance of 150 feet from any local, State, or federal confinement facility;
 - ii. The public utility or commercial entity notifies the official in charge of the confinement facility at least 24 hours prior to operating the UAS;
 - iii. The public utility or commercial entity uses the UAS to inspect public utility or provider transmission lines, equipment, or communication infrastructure or any other purpose directly related to the business of the entity;
 - iv. The public utility or commercial entity complies with all Federal Aviation Administration (FAA) regulations; and
 - v. The public utility or commercial entity operating the UAS does not physically enter the prohibited space of the confinement facility without an escort from the facility.
4. An emergency management agency, emergency medical services personnel, firefighters, and law enforcement officers, when using a UAS in response to an emergency.

Any person who delivers, or attempts to deliver, a weapon to a local, State, or federal confinement facility using a UAS is guilty of a Class H felony, which would include a fine of \$1500.

Any person who uses a UAS to deliver, or attempt to deliver, contraband to a local, State or federal confinement facility is guilty of a Class I felony, which would include a fine of \$1000. The term contraband includes controlled substances, cigarettes, alcohol, and communication devices, but does not include weapons.

Any other person who flies a UAS in violation of the standards set forth in this law is guilty of a Class 1 misdemeanor, which includes a fine of \$500.

A law enforcement agency is authorized, but not mandated, to seize a UAS and any attached property, weapons, or contraband when the UAS is used in violation of this law. A seized UAS would be subject to the same forfeiture and disposition guidelines established for property seized pursuant to an alcoholic beverage control law violation under N.C. Gen. Stat. § 18B-504.

Other Prohibitions

Unless a specific exception exists (discussed below) people, entities and State agencies cannot use an UAS to:

1. Conduct surveillance of a person or dwelling occupied by a person or that dwellings curtilage without the person's consent. Curtilage is normally described as that area of land immediately surrounding where a person lives that is used for the "comfort and convenience of the homeowner." In its simplest terms, curtilage envisions the kept yard around a dwelling, which may include storage buildings and the like;
2. Conduct surveillance of private real property without the owner's consent or the consent of the lessee of the property; or
3. Take photographs of an individual, without their consent, for the purpose of publishing or publicly sending out the photograph. However, photographs could be taken without a person's consent if it was a part of a news gathering project, a newsworthy event, or events or places where the general public is invited. For example, if a large Fourth of July celebration is held in a public park, a person or government agency could fly drones over the event and photograph people and the gathering.

Law Enforcement Exceptions

Law enforcement officers in North Carolina may however use UASs in the following circumstances:

1. To counter a high risk of a terrorist attack by a specific person or individual if

the United States Secretary of Homeland Security or the Secretary of the Department of Public Safety determines that credible intelligence exists for the risk;

2. To conduct surveillance in an area that is within a law enforcement officer's plain view when the officer is in a location the officer has a legal right to be. For example, if an officer sitting in his vehicle on the side of a public roadway can look over a field and see marijuana plants growing, the officer would be able to use a drone to fly over the area;
3. If the law enforcement agency first obtains a search warrant authorizing the use of a UAS;
4. If the law enforcement agency has reasonable suspicion that the use of the drone is necessary immediately to prevent imminent danger to life or serious damage to property, to stop the imminent escape of a suspect with the destruction of evidence, to conduct pursuit of an escapee or suspect, or to search for a missing person; or
5. To photograph gatherings where the public is invited on public or private land.

Special Imaging Technology

A UAS can be equipped with infrared or other special imaging technology. This is however still limited by the above restrictions. For example, an individual can attach an infrared camera to their personal UAS however, that drone cannot be used to take photographs of another individual without their consent. It is a Class A1 misdemeanor to publish or disseminate images taken by a person or non-law enforcement entity through the use of infrared or other thermal imaging technology attached to a UAS without the consent of the property owner.

Protections from Unauthorized Surveillance

Anybody who finds themselves the subject of surveillance by a UAS in violation of the standards set out above, or whose photograph was taken in violation of the standards, would be able to bring a civil lawsuit against the person or agency (including law enforcement) that conducted the surveillance or took the photograph. Instead of receiving actual damages, the person whose photograph was taken could elect to recover \$5000 for each photograph or video that is published or otherwise disseminated, as well as receive attorney's fees and court costs. The person could also ask for and receive an injunction to prevent further violations by the court.

Any evidence obtained by a law enforcement agency in violation of the standards set out above cannot be used in a criminal prosecution in North Carolina, except when the evidence was obtained by an officer who had a reasonable good faith belief that they

were acting under the law.

Launch and Recovery Sites

No UAS can be either launched or recovered from any State or private property without consent. Additionally, local governments can adopt ordinances to further regulate the use of property within their control for the launch or recovery of unmanned aircraft systems. Some federal parks may also restrict the use of UASs on or above park property.

Indoor Flight

Indoor flight of a UAS is not governed by the FAA. Indoor flight is all flights of UASs occurring in an enclosed space. Indoor UAS flights are the responsibility of the building owner; however, the conduct of those flights and any pictures taken as a result of those flights are still subject to North Carolina law.

Search and Seizure Case Law Related to Drones

The Fourth Amendment to the United States Constitution provides: The right of people to be secure, in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the person or things to be seized.

The protections of the Fourth Amendment only extend to actions of the government found to be an unreasonable search or seizure. What constitute a search remains open to interpretation, depending on the technology involved and the particular circumstances of each case.

It is well settled that we all enjoy an expectation of privacy within our home. The government may not surveil the interior of a home without first obtaining a warrant to do so. *United States v. Karo*, 468 U.S. 705 (1984). This includes the use of thermal imaging to view activity within a home. Such conduct by law enforcement violates the Fourth Amendment unless the agency first obtains a search warrant to conduct this type of surveillance on a home. *Kyllo v. United States*, 553 U.S. 27 (2001). Therefore drones cannot be used without a search warrant to spy on the interior of a home.

However, because areas outside and above the home are open to public view, a warrant may not be required when law enforcement surveils private property by using aircraft. There are several cases that illustrate this point. In *California v. Ciraolo*, 476 U.S. 207 (1986), police received an anonymous tip that the defendant was growing marijuana. The defendant had erected a fence to protect his garden from public view. Law enforcement used an aircraft to fly over the defendant's property at 1000 feet and observed marijuana plants. The Supreme Court found no Fourth Amendment violation and held there was no

reasonable expectation of privacy in areas of the property open to view from above. Anyone flying in a private aircraft could have seen the marijuana.

In *Dow Chemical Co. v. United States*, 476 U.S. 277 (1986), the Environmental Protection Agency (EPA) took aerial photographs of outside areas of a Dow Chemical plant from aircraft, resulting in detailed pictures of the plant (Dow claimed this information was private and sensitive). The Supreme Court found no search occurred, and therefore no warrant was required, because the EPA had used an “ordinary” device to take the photographs, which was a camera with a high powered lens. The outdoor areas of the Dow plant were treated by the court as analogous to an open field.

In *Florida v. Riley*, 448 U.S. 445 (1989) the Supreme Court held that a law enforcement helicopter flying as low as 400 feet could surveil private property without first obtaining a warrant. In *Riley*, the police received a tip that Riley was growing marijuana. The police used a helicopter to fly 400 feet above his property. The officers could see marijuana through missing roof panels in the green house located on the property. The Court held this did not constitute a search under the Fourth Amendment because anyone could lawfully fly above the property and observe what law enforcement saw. There was no reasonable expectation of privacy in this airspace. The Court did, however, note that the helicopter was not disturbing the quiet enjoyment of the property (such as by creating extra wind, kicking up dust, creating excessive noise, etc.).

Based on these cases, we know that operating a helicopter or other aircraft at between 400 and 1000 feet and observing outdoor areas on private property from above does not violate the Fourth Amendment because there is no reasonable expectation of privacy in these outdoor areas from above in navigable airspace. Also, the *Dow* case illustrates that you can use a camera (ordinary technology) to photograph property open to sight from above without having to obtain a search warrant.

Law enforcement agencies in North Carolina must comply with the State and federal standards and restrictions discussed above for the operation of a UAS and also be aware of the Fourth Amendment implications discussed by the Supreme Court of the United States.

Conclusion

Both State and federal law governing the operation of drones is constantly changing. Experience is showing that a UAS can be an invaluable asset to government agencies, including law enforcement, subject to the standards and restrictions described above. It is our hope that this publication will provide the basic information a law enforcement agency needs to begin their UAS program.

If you have any questions about these materials, please contact John Aldridge, NCSA Assistant General Counsel, at (919) 459-8196 or Jaldrige@ncsheriffs.net.

**Sheriffs' Supplemental Pension Fund Retirement Chart
(Effective January 1, 2018)**

Latest Monthly Base Rate of Salary	=	_____	A
	x	_____ 0.75	
75% of Base Rate of Salary	=	_____	B
LGERS Monthly Retirement Benefit [.0185 x years of creditable service x average salary for highest 4 years, divided by 12]	minus	_____	C
SSPF Monthly Benefit	=	_____	D

**** IF YOU ARE RECEIVING A SPECIAL SEPARATION ALLOWANCE, THEN THE FOLLOWING CALCULATIONS APPLY****

Monthly Special Separation Allowance (SSA) (per N.C.G.S. 143-166.42) [.0085 x years of creditable service x annual base rate of pay, divided by 12]	=	_____	E
Add Lines C + E	=	_____	F
Subtract Line F from Line A Adjusted SSPF Monthly Benefit	=	_____	

NOTES: SSPF Monthly Benefit cannot exceed \$1,500 per month.

If your LGERS monthly benefit exceeds 75% of your salary at retirement, you are not eligible to receive SSPF benefits.

If your combined LGERS and SSA monthly benefits exceed 100% of your salary at retirement, you are not eligible to receive SSPF benefits. You may become eligible for a SSPF benefit at age 62 when the SSA benefit ends.

**EXAMPLE: Average Final Compensation \$60,000 per Year
Thirty Years of Creditable Service**

**Sheriffs' Supplemental Pension Fund Retirement Chart
(Effective January 1, 2018)**

Latest Monthly Base Rate of Salary	=	<u>\$5000</u>	A
	x	<u>0.75</u>	
75% of Base Rate of Salary	=	<u>\$3750</u>	B
LGERS Monthly Retirement Benefit [.0185 x years of creditable service x average salary for highest 4 years, divided by 12]	minus	<u>\$2775</u>	C
SSPF Monthly Benefit	=	<u>\$975</u>	D

**** IF YOU ARE RECEIVING A SPECIAL
SEPARATION ALLOWANCE, THEN THE
FOLLOWING CALCULATIONS APPLY****

Monthly Special Separation Allowance (SSA) (per N.C.G.S. 143-166.42) [.0085 x years of creditable service x annual base rate of pay, divided by 12]	=	<u>\$1275</u>	E
Add Lines C + E	=	<u>\$4050</u>	F
Subtract Line F from Line A Adjusted SSPF Monthly Benefit	=	<u>\$950</u>	

- NOTES:** **SSPF Monthly Benefit cannot exceed \$1,500 per month.**
- If your LGERS monthly benefit exceeds 75% of your salary at retirement, you are not eligible to receive SSPF benefits.**
- If your combined LGERS and SSA monthly benefits exceed 100% of your salary at retirement, you are not eligible to receive SSPF benefits. You may become eligible for a SSPF benefit at age 62 when the SSA benefit ends.**