
FINAL LEGISLATIVE REPORT

2017

North Carolina Sheriffs' Association



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

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NORTH CAROLINA SHERIFFS' ASSOCIATION

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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 Dissemin, 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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