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# FINAL LEGISLATIVE REPORT

2021

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## North Carolina Sheriffs' Association



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

December 2021



## NORTH CAROLINA SHERIFFS' ASSOCIATION

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The 2021 “Long Session” of the North Carolina General Assembly convened on January 13, 2021 and “adjourned” on December 10, 2021. While the General Assembly is technically adjourned, they are scheduled to reconvene the Long Session on December 30<sup>th</sup> at noon. However, upon doing so the matters that can be considered by the General Assembly are limited in scope. Such matters include, but are not limited to bills concerning redistricting for Congressional and State House and Senate elections, bills filed in response to litigation challenging any bill enacted into law, and organizational resolutions for the final adjournment until the General Assembly returns next year for the short session.

During the 2021 - 2022 Session of the General Assembly, 979 House bills and 741 Senate bills were introduced, for a total of 1720 new legislative bills available for consideration. Of the eligible legislative bills, 185 of them were enacted into law. Governor Roy Cooper signed 147 bills, allowed 1 to become law without his signature, and vetoed 16 bills. None of the Governor’s vetoes were overridden by the General Assembly, although 1 override was attempted.

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 that have been enacted into law this Session. For specific details about the legislative bills summarized below, please review the actual legislation. Any of the legislation introduced or considered by this year’s General Assembly is available on the General Assembly’s website: [www.ncleg.gov](http://www.ncleg.gov).

The General Assembly is scheduled to reconvene on December 30, 2021 at 12:00 noon, but the matters that can be considered are very limited. We do not anticipate any action by the General Assembly that would necessitate further reporting. However, if the General Assembly takes any action on any bill of interest to the criminal justice community, we will publish a Special Legislative Report with the details.

## HOUSE BILLS

[HOUSE BILL 68](#), [GSC Licensing Boards and Comm'ns/Rule Crimes](#), amends G.S. 74C-17 to eliminate the criminal penalty for violating any rule promulgated by the North Carolina Private Protective Services Board (PPSB) that has been adopted by the PPSB to implement the laws regulating private protective services. Currently, these rules are adopted and published in the North Carolina Administrative Code.

It was previously a Class 1 misdemeanor to violate any rule promulgated by the PPSB that has been adopted to implement the laws regulating private protective services. The bill does not eliminate the Class 1 misdemeanor penalty for violating certain State statutes that have been enacted into law to regulate private protective services.

Effective: December 1, 2021 and applies to offenses committed on or after that date. The bill does not affect prosecutions for offenses committed before the effective date.

[HOUSE BILL 84](#), [Sex Offender Premises Restrictions](#), amends G.S. 14-208.18 to add a new category of individuals who are subject to the sex offender premises restrictions that prevent certain registered sex offenders from being at places where minors are known to congregate. Convicted sex offenders who are required to register as a sex offender under Chapter 14, Article 27A of our General Statutes and who have committed first, second, or third degree sexual exploitation of a minor (or substantially similar federal offenses or substantially similar offenses in another state) will also be subject to the premises restrictions of G.S. 14-208.18(a) even if the victim in the case was not a minor (such as an undercover law enforcement officer posing as a minor).

Previously, a sex offender required to register for a sexual exploitation offense was not subject to the premises restrictions if the victim of the crime was not under the age of 18 at the time of the offense.

The bill also amends G.S. 15A-145(a1) to clarify that the statute allowing for the expunction of first-time offenses committed by offenders under the age of 18 will not allow expunction of any offense for which the person was required to register under our State Sex Offender Registry laws, Chapter 14, Article 27A of the General Statutes.

Finally, the bill amends G.S. 14-208.16(a) to clarify that the 1000-foot residency restriction in Chapter 14, Article 27A for registered sex offenders is measured from the property line of any property on which a school or child-care center is located. This amendment specifies that any offender subject to the residency restriction is prohibited from residing at any location which is within 1000 feet of the property line of any property on which a school or child-care center is located or within any structure, any portion of which is within 1,000 feet of any property line of any property on which a school or child-care center is located. Previously, the statute did not specify what constituted “the property” for purposes of measuring.

Effective: December 1, 2021, and applies to substantially similar out-of-state sex offenses committed on or after that date, petitions filed on or after that date, and to all persons registered as a sex offender or required to register as a sex offender on or after that date.

Note: the residency restrictions that were modified in the bill to clarify where a registered sex offender can reside do not apply to a registered sex offender who has established residency prior to the effective date.

[HOUSE BILL 165](#), DOT Legislative Changes, amends G.S. 20-37.6(c1), effective November 23, 2021, to require the North Carolina Division of Motor Vehicles (DMV) to offer renewals of handicapped credentials, such as a handicapped placard, both in person and online at the DMV's website. Previously, the DMV did not offer an online renewal option.

Additionally, effective November 23, 2021, the bill enacts a new subsection to G.S. 20-17.4, which provides that a person is disqualified from driving a commercial motor vehicle for life in the State of North Carolina, without the possibility of reinstatement, if that individual has used a commercial motor vehicle in the commission of a felony involving human trafficking.

Finally, the bill amends G.S. 136-89.199 and G.S. 20-176, effective December 1, 2021, to clarify that violation of a use requirement for high-occupancy toll and managed lanes (such as restricting the types of vehicles allowed to travel in these lanes) designated by the North Carolina Department of Transportation and the North Carolina Turnpike Authority is punishable as an infraction.

[HOUSE BILL 168](#), Retirement Administrative Changes Act of 2021, amends G.S. 143-166.43 to require State departments, agencies, or institutions, and local government employers to have written, adopted policies in place that do not allow employees to choose between accepting a lump sum separation buyout for law enforcement officers as a cash payment or transferring the lump sum separation buyout to the Teachers' and State Employees' Retirement System (TSERS) or the Local Governmental Employees' Retirement System (LGERS). The bill specifies that employers must have this policy in place before any lump sum separation buyout transfer to TSERS or LGERS may occur. Whether an employer offers a lump sum separation buyout to a law enforcement officer remains at the discretion of the employer.

Effective: July 1, 2021 and applies to lump sum separation buyouts offered on or after that date.

[HOUSE BILL 181](#), Wildlife Resource Comm'n. Amendments, makes various changes to the laws regarding wildlife resources. Of interest to the criminal justice community, the bill:

1. Amends G.S. 113-291.7 to require any hunter who has harvested a black bear to submit at least one premolar tooth to the Wildlife Resources Commission ("Commission") no later than January 31 following the prior bear hunting season in which the bear was harvested, along with a form specified by the Commission containing certain information related to the bear and the hunter.

Violation of this requirement is an infraction and punishable by a fine of thirty-five dollars (\$35.00). In addition, the Executive Director of the Commission is authorized to revoke

or refuse bear e-stamp privileges for two consecutive years to any individual who violates this requirement.

Previously, a hunter that harvested a black bear was only required to report the harvest to the Commission through the submission of paperwork (a big game report card) in the same manner as the harvesting of any other big game, such as turkey or deer.

Effective: October 1, 2021 and applies to bear hunting seasons beginning on or after that date.

2. Amends G.S. 113-273 to create a new “Wildlife Control Technician Certification” to be issued by the Commission. A wildlife control technician is defined as an individual who engages in wildlife damage control or wildlife removal activities for compensation under the direct supervision of a licensed wildlife control agent, as opposed to the existing classification of wildlife control agent which can engage in wildlife damage control or wildlife removal activities without direct supervision. The annual fee to be certified as a wildlife control technician is twenty-five dollars (\$25.00).

Effective: October 1, 2021

3. Creates new G.S. 143-254.7, which empowers the Commission to declare a wildlife emergency if it determines that an outbreak of Chronic Wasting Disease in the State constitutes a significant threat to deer and other cervid species and requiring the Commission to request from the North Carolina Council of State upon the declaration of such emergency that any needed additional funding for immediate investigation, containment, and eradication of the outbreak be appropriated from the State contingency and emergency fund.

Effective: July 1, 2021

4. Amends G.S. 113-295 to create a new subsection that makes it unlawful to place bait for the purpose of intentionally interfering with the lawful taking of wildlife. A violation of this new subsection is a Class 2 misdemeanor for the first conviction and a Class 1 misdemeanor for a second or subsequent conviction.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

[HOUSE BILL 203](#), Extend Deadline for Police Telecommunicators, amends G.S. 17E-7 to allow telecommunicators employed by municipal police agencies another year, up until July 1, 2022, to meet the requirements for certification by the North Carolina Sheriffs’ Education and Training Standards Commission (“Commission”). Previously, any person employed as a telecommunicator by a municipal police agency had to meet the Commission’s requirements for telecommunicators by July 1, 2021.

Effective: June 16, 2021

[HOUSE BILL 238](#), [Prohibit Possession of Skimming Device](#), amends G.S. 14-113.9 to include within the current Class I felony criminal offense of “financial card transaction theft,” the act of knowingly possessing, selling, or delivering a “skimming device.”

A skimming device is defined in amended G.S. 14-113.8 as a self-contained device that: (1) is designed to read and store in the device's internal memory information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a financial transaction card or from another device that directly reads the information from a financial transaction card; and (2) is incapable of processing the financial transaction card information for the purpose of obtaining, purchasing, or receiving goods, services, money, or anything else of value from a merchant.

In layman’s terms, a skimming device is a device that collects credit card numbers and PINs from victims using devices such as ATMs and gas pumps. This unlawfully obtained information is then used to either replicate illegal credit cards or to make unlawful online transactions.

Finally, this prohibition against the possession, selling or delivery of a skimming device does not apply to any officer, agent or employee of the following who are discharging their official duties: (1) a law enforcement agency; (2) a State or federal court; (3) an agency or department of the State, local or federal government; or (4) a financial or retail security investigator employed by a merchant.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

[HOUSE BILL 297](#), [DMV Deployed Armed Forces Exemptions](#), amends G.S. 20-35, effective December 1, 2021 and applicable to offenses committed on or after that date, to provide a defense to driving with an expired license for members of the Armed Forces of the United States recently returning from deployment. The defense applies if the person charged can, at the time of trial, provide verifiable written proof of deployment and establish that: (1) they were deployed as a member of the Armed Forces of the United States when their driver’s license expired; and (2) they obtained a renewed driver’s license within 30 days after returning from deployment.

The bill also amends G.S. 20-88.03, effective October 1, 2021, to allow for the waiver of North Carolina Division of Motor Vehicles (DMV) late fees associated with motor vehicle registration for members of the Armed Forces of the United States if the service member can establish that: (1) they were deployed as a member of the Armed Forces of the United States when their registration expired; and (2) they obtained a renewed registration within 30 days after their deployment ended.

[HOUSE BILL 312](#), [Qualifications for Sheriff/Expunction](#), makes various changes to the laws concerning candidates for the Office of Sheriff. Of interest to the criminal justice community, the bill:

1. Amends G.S. 162-2 to clarify that any person who has been convicted of a felony is disqualified from occupying the Office of Sheriff, even if that felony conviction has been expunged. If the person has been granted an unconditional pardon of innocence for a conviction, that conviction does not act as a disqualifier.

2. Amends G.S. 162-2 to disqualify any person from the Office of Sheriff who is not a qualified voter in the county in which the candidate is chosen. Previously, a candidate for the Office of Sheriff was required to reside in the county of candidacy for one year prior to the election to be a qualified candidate.

Amended G.S. 162-2 provides that a candidate for the Office of Sheriff need only reside in the State for one year prior to the election and in the county of candidacy for 30 days prior to the election to meet the residency requirement. This amendment was necessary to conform G.S. 162-2 to the requirements of the North Carolina Constitution and the decision of the Supreme Court of North Carolina in *Moore v. Knightdale Bd. of Elections*, 331 N.C. 1 (1992).

3. Amends G.S. 162-2 to require any candidate for, or appointee to, the Office of Sheriff to provide a disclosure statement, prepared by the North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), verifying that the candidate or appointee has no prior felony convictions or expungements for felony convictions.
4. Enacts new G.S. 17E-20, requiring any candidate for, or appointee to, the Office of Sheriff to request that the Commission prepare the disclosure statement and requiring the candidate or appointee to furnish any information needed by the Commission in completing the disclosure statement.

The disclosure statement must at least contain the name of the individual requesting the disclosure statement, the date the disclosure statement was prepared, the individual's county of residence, and a statement that the individual has no prior felony convictions or expungements of felony convictions, if that is the case.

Newly enacted G.S. 17E-20 specifies that the request for the disclosure statement, the prepared disclosure statement itself, and any supporting documentation used in its preparation are confidential and not public record.

Newly enacted G.S. 17E-20 also requires the Commission, in preparing the disclosure statement, to conduct a State and national criminal history record check of the individual requesting the disclosure statement and requires the Commission to contact the Administrative Office of the Courts (AOC) to discover whether the individual has received an expungement of any felony conviction.

5. Enacts new G.S. 17E-25 to give the Commission access to AOC felony conviction and expungement records for the purpose of verifying that each candidate or appointee to the Office of Sheriff has no prior felony convictions or expungements of felony convictions.
6. Enacts new G.S. 17E-30, which provides that any disclosure statement prepared by the Commission is valid for 90 days after issuance.



7. Amends G.S. 163-106 to require any candidate for the Office of Sheriff to file the disclosure statement with the county board of elections at the time of filing the notice of candidacy. Amended G.S. 163-106 provides that a candidate's filing will not be considered complete unless they have filed a valid disclosure statement, nor will their name appear on the ballot or votes be counted in their favor.
8. Amends G.S. 162-5 and G.S. 162-5.1 to require any board of county commissioners appointing an individual to fill a vacancy in the Office of Sheriff (such as due to the death or retirement of the sheriff) to have first received the disclosure statement, issued within 90 days prior to appointment, verifying that the appointee has no felony convictions or expungements of felony convictions.
9. Enacts G.S. 143B-974, allowing the North Carolina Department of Public Safety ("DPS") to provide a criminal history to the Commission in connection with any person filing a notice of candidacy for, or any potential appointee to, the Office of Sheriff. If a criminal history from DPS is requested, the Commission must forward to DPS the candidate's or appointee's fingerprints, a form signed by the candidate or appointee consenting to the criminal record check and use of fingerprints, and any additional information required by DPS.

Newly enacted G.S. 143B-974 specifies that any fingerprints received by DPS must be forwarded to the State Bureau of Investigation and Federal Bureau of Investigation. Any information received pursuant to the criminal history request is confidential and the criminal history report is not a public record.

10. Amends G.S. 15A-151 to provide that AOC may disclose confidential information regarding expungements in its files to the Commission in connection with the preparation of a disclosure statement.
11. Amends G.S. 15A-145.4, G.S. 15A-145.5 and G.S. 15A-145.6 to provide that an individual requesting that a disclosure statement be prepared by the Commission must disclose to the Commission any and all felony convictions, regardless of whether those convictions have been expunged.

Effective: October 1, 2021 and applies to elections and appointments to office on or after that date.

[HOUSE BILL 334](#), [Budget Technical Corrections](#), makes various technical corrections to this year's State budget bill, [Senate Bill 105](#), [2021 Appropriations Act](#), that was signed into law by Governor Roy Cooper on November 18, 2021. [Senate Bill 105](#) is summarized below in this Final Legislative Report.

Of particular interest to the criminal justice community, the budget technical corrections bill appropriates to the North Carolina Department of Public Safety \$18 million in nonrecurring funds for the 2021-2022 fiscal year to provide funding for equipment for North Carolina State Highway Patrol Troopers to respond to excessive civil disturbances and related events, including the purchase of automatic external defibrillators.



Effective: July 1, 2021

HOUSE BILL 366, Regulatory Reform Act of 2021, makes various changes to the law. Of interest to the criminal justice community, the bill:

1. Amends G.S. 14-234 to lessen the restrictions on public officials contracting with public agencies. G.S. 14-234 prohibits, among other things, public officials from obtaining a direct benefit from a contract they are making or administering on behalf of a public agency; however, the statute exempts certain contracts.

Amended G.S. 14-234 expands an exemption under the statute to include contracts between a public agency and a city official elected or appointed to an elective office in a city, village, or town having a population of no more than 20,000 or between a public agency and a county official elected or appointed to an elective office in a county having no village, town, or city with a population of more than 20,000, if all the following apply:

- (i) the contract, undertaking, or series of contracts or undertakings is approved by specific resolution of the governing body of the public agency in an open and public meeting, is recorded in its minutes, and does not exceed \$20,000 for medically related services and \$60,000 for other services or goods within a 12-month period;
- (ii) the official entering into and deriving a direct benefit from the contract does not participate in any way in approval of the contract or vote;
- (iii) the total amount of contracts with each official is specifically noted in the audited annual financial statement of the public agency; and
- (iv) the governing board of the public agency posts, in a conspicuous place, a list of all such officials with whom contracts have been made in the preceding 12 months, updated quarterly and briefly describing the subject matter of the contracts and their total amounts.

Previously, this exemption only applied to contracts not exceeding \$40,000 in non-medical goods or services within a 12-month period between public agencies and city officials in towns, villages, or cities having populations of no more than 15,000 and between public agencies and county officials in counties having no town, city, or village with a population exceeding 15,000.

Effective: August 23, 2021 and applies to contracts executed on or after that date.

2. Directs the North Carolina Department of Public Safety, Division of Emergency Management (“Division”), to study the needs of law enforcement, EMS personnel, and firefighters for improved access to or within the interstate system of this State for the benefit of public safety. The bill also requires the Division to report on its findings to the

Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Emergency Management Oversight Committee, and the Joint Legislative Transportation Oversight Committee no later than March 1, 2022.

Effective: August 23, 2021

3. Amends G.S. 18B-1105 to allow distillers permitted by the North Carolina Alcoholic Beverage Control (ABC) Commission to sell, deliver, and ship in closed containers spiritous liquor direct to consumers in other states or nations as long as the foreign jurisdiction does not require reciprocity to allow such direct sales or shipments to consumers in North Carolina.

Effective: September 1, 2021 and applies to sales made on or after that date.

[HOUSE BILL 386](#), Sunny Point Rail ROW Firearm Discharge Ban, enacts a local law applicable only to Brunswick County that makes it a Class 3 misdemeanor to discharge or to attempt to discharge a firearm from, on, across, or over the right-of-way of the United States Department of Defense Strategic Rail Corridor Network connecting the Leland rail interchange yard with the Military Ocean Terminal at Sunny Point.

The law is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, by sworn civilian police officers for the Military Ocean Terminal at Sunny Point, and by other peace officers with general subject matter jurisdiction.

This bill applies only to Brunswick County.

Effective: October 1, 2021 and applies to offenses committed on or after that date.

[HOUSE BILL 404](#), Ltd. Immunity for PSAP/TC for S.L. 2021-171, amends G.S. 143B-1413 to provide that public safety answering points (PSAPs), regional PSAPs, their employees, directors, officers, vendors, and agents, and employees of a law enforcement agency that are certified by the North Carolina Sheriffs' Education and Training Standards Commission (such as telecommunicators) are immune from being liable for damages in a civil action resulting from implementing, maintaining, or operating the 911 system, including call taking, dispatching, radio operations, data terminal operations, or any combination of these call taking functions. The immunity does not apply to actions arising out of the operation or ownership of a motor vehicle.

Amended G.S. 143B-1413 further provides that this immunity is forfeited if any of these entities engage in gross negligence or wanton or willful misconduct and is waived to the extent a liability insurance policy provides coverage.

Previously, the above-described entities were not afforded any immunity from damages in civil suits, but plaintiffs were required to meet a higher burden of proof, clear and convincing evidence, in proving the liability of PSAPs and their officers, directors, employees, vendors, and agents.

Effective: November 18, 2021 and applies to lawsuits filed on or after that date.

[HOUSE BILL 406](#), Spec. Sep. Allowance/Certain 25-Yr LEOs, requires every sworn law enforcement officer employed by either Cleveland, Rutherford, or Moore counties who meets the criteria below and retires on a basic service retirement to receive a special separation allowance (SSA) based on years of service ranging from 25 to 30 years or more.

To qualify the officer must: (1) have completed 25 years or more of creditable service; (2) have not attained 62 years of age; (3) have completed at least 10 years of continuous service as a law enforcement officer for one of the above counties immediately before service retirement; and (4) is not a recipient of the SSA for retired law enforcement officers under the Teachers' and State Employees' Retirement System (TSERS) or the Local Governmental Employees' Retirement System (LGERS).

Currently, to qualify for a special separation allowance under LGERS, a retiring local law enforcement officer must, among other requirements, have completed 30 or more years of creditable service or be 55 years of age or older with 5 years of creditable service.

When this bill takes effect, retiring law enforcement officers employed by Cleveland, Rutherford, or Moore counties who have at least 25 years of creditable service but who have not yet attained 55 years of age will receive a reduced special separation allowance.

This bill applies only to Cleveland, Rutherford and Moore counties.

Effective: January 1, 2022 and applies prospectively to eligibility determinations made by the governing bodies of Cleveland, Rutherford, and Moore counties on or after that date.

[HOUSE BILL 436](#), Support Law Enforcement Mental Health, amends G.S. 17E-7(c) and G.S. 17C-10(c) to direct the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission (the Commissions) to require the administration of psychological screening examinations.

The bill requires the mandatory psychological screening examination to occur prior to the initial certification of the law enforcement officer or before the law enforcement officer is allowed to perform any act requiring certification.

The mandatory psychological screening examination is to be conducted by a licensed psychologist and must include a face-to-face, in-person interview to determine the law enforcement officer's psychological suitability to properly fulfill the responsibilities of a law enforcement officer. If a face-to-face, in-person examination is not practicable, the face-to-face evaluation can be virtual so long as both the audio and video allow for a professional clinical evaluation in a clinical environment.

Finally, the bill amends G.S. 17E-4(a) and G.S. 17C-6(a) to require the Commissions to establish (1) minimum educational and training standards for entry level employment to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice personnel; and (2) minimum in-service training standards for effective mental health and wellness

strategies for criminal justice personnel that will be a minimum of two hours training every three years.

The language in this bill is also contained verbatim within [Senate Bill 300](#), Criminal Justice Reform, which is summarized below in this Final Legislative Report.

Effective: January 1, 2022 and applies to applications for law enforcement certification filed on or after that date.

[HOUSE BILL 481](#), Firearm Disposal/UNC Campus Police, amends G.S. 143-63.1, effective August 23, 2021, to allow any department, agency, institution, commission, or bureau of the State or any UNC system campus law enforcement agency to sell by public sale, trade, or dispose of surplus weapons to federally licensed firearms dealers in a manner prescribed by the North Carolina Department of Administration.

Previously, only the North Carolina State Highway Patrol, the North Carolina Department of Public Safety, Divisions of Adult Correction and Juvenile Justice and Alcohol Law Enforcement, and the North Carolina State Bureau of Investigation had such authority.

This authority is subject to G.S. 20-187.2, which allows surviving relatives and retiring members of North Carolina State, city, and county law enforcement agencies to request that the governing body of the applicable law enforcement agency, in its discretion, allow them to purchase their or their late relative's former service sidearm.

The bill amends G.S. 20-187.2, effective August 23, 2021, to also allow active members of North Carolina city and county law enforcement agencies the option of purchasing their former service weapon upon a change in weapon types. Previously, only active members of North Carolina State law enforcement agencies had the option to purchase their former service weapon when their agency changed weapon types.

Finally, the bill amends G.S. 14-415, effective December 1, 2021 and applicable to petitions for restoration of firearms rights filed on or after that date, to clarify that at least 20 years must have elapsed since the unconditional discharge or unconditional pardon of an out-of-state nonviolent felony conviction before the individual convicted may petition a North Carolina district court for restoration of firearms rights.

[HOUSE BILL 536](#), Law Enforcement Duty to Intervene, makes various changes to the laws concerning use of force and law enforcement certification. Of interest to the criminal justice community, the bill:

1. Amends G.S. 15A-401 to require any law enforcement officer to intervene and prevent the use of excessive force if that officer, while in the line of duty: (1) observes another law enforcement officer use force against a person that the observing officer reasonably believes exceeds the amount of force authorized by the statute; and (2) has a reasonable opportunity to safely intervene.

The bill also amends G.S. 15A-401 to require the observing officer to report the alleged use of excessive force to a superior officer in the observing officer's agency within a reasonable amount of time after the observation not to exceed 72 hours, even if the observing officer did not have an opportunity to intervene.

If the head of the law enforcement agency of the observing officer was involved in or present during the alleged use of excessive force, the observing officer must make the report to the highest-ranking law enforcement officer of the observing officer's agency who was not involved in or present during the alleged excessive use of force.

Effective: December 1, 2021 and applies to uses of force on or after that date.

2. Amends G.S. 17E-4 and G.S. 17C-6 to require that the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) by name for any applicant for certification or lateral transfer to determine if the applicant has any record that would disqualify the applicant from being certified.

Effective: October 1, 2021 and applies to applications for certification submitted on or after that date.

3. Enacts G.S. 17E-16 and G.S. 17C-16, which create new requirements for certain persons in receipt of a notification that they may not be called to testify because of bias, interest, or lack of credibility. Of interest to the criminal justice community, the new statutes:
  - a. Require any person certified by the North Carolina Sheriffs' Education and Training Standards Commission or the North Carolina Criminal Justice Education and Training Standards Commission (the Commissions), or any person who has received a conditional offer of employment, to report to their respective Standards Division if they have been notified that they may not be called to testify at trial because of bias, interest, or lack of credibility.

This notification is commonly known as a "*Giglio* notification."

Newly enacted G.S. 17C-16 and G.S. 17E-16 only apply to *Giglio* notifications given to a person either: (1) in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head; or (2) in open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

- b. Require that the mandated report to the Standards Divisions be made by three individuals: (1) the person in receipt of the *Giglio* notification; (2) that person's agency head; and (3) the official issuing the *Giglio* notification.

- i. The person in receipt of the *Giglio* notification must, within 30 days of receiving it, report in writing to the applicable Standards Division and provide a copy of the notification, unless the person has requested a superior court hearing for a judicial determination of whether the *Giglio* notification is required to be reported under the terms of the statute.

If a superior court hearing is requested, the person must provide a notice of hearing to the applicable Standards Division and one extension of 15 days will be added to the 30-day reporting requirement.

The written report to the Standards Division must state who issued the *Giglio* notification to the person.

- ii. The person in receipt of the *Giglio* notification must also, within 30 days of receiving it, make a report of the notification to their agency head. The agency head must then report the notification to the applicable Standards Division in writing within 30 days of receiving the report from their subordinate.
  - iii. Lastly, the official who issues the *Giglio* notification must, within 30 days of issuance, report the notification, verbally or in writing, to the applicable Standards Division and provide the Standards Division a copy of the written document or order memorializing the notification.
- c. Require the Standards Divisions, if they transfer to another agency the certification of any person in receipt of a reportable *Giglio* notification, to provide written notification of this fact to the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located. If the new agency receiving notification is a State agency, the Standards Divisions must notify the elected district attorney of every prosecutorial district in the State.
  - d. Require the Commissions to report annually to the Joint Legislative Oversight Committee on Justice and Public Safety, no later than March 1, regarding the number of *Giglio* notifications that were received during the previous calendar year. The report is to include information on whether any action was taken against a person's certification (such as through the entry of a final agency decision by either Commission following an administrative hearing). The report shall not include the name or other identifying information of any person in receipt of a reportable *Giglio* notification.

Previously, law enforcement officers who received *Giglio* notifications were not required to report the notification to the Standards Divisions and there was no formal procedure in existence for a law enforcement officer to challenge receipt of a *Giglio* notification in any way.

Effective: October 1, 2021 and applies to notifications received prior to, on, or after that date by persons required to report.

Note: The language in this bill is also contained verbatim within [Senate Bill 300](#), Criminal Justice Reform, which is summarized below in this Final Legislative Report.

[HOUSE BILL 608](#), Dignity for Women Who are Incarcerated, enacts new Article 2B within Chapter 148 of our General Statutes applying to State correctional facilities and a new Part 2B within Article 10 of Chapter 153A applying to “local confinement facilities.” Both newly enacted provisions of law are identical, unless noted below, and establish new requirements for the supervision and care of pregnant prisoners and inmates in State prisons and in local confinement facilities (jails).

A local confinement facility includes a county or city jail, a local lockup, a regional or district jail, a juvenile detention facility, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences. It does not include a county satellite jail/work release unit.

The provisions of interest to the criminal justice community include:

1. The bill prohibits any method of restraint of pregnant inmates during the second and third trimesters of pregnancy, labor, and delivery inside both State correctional facilities and local confinement facilities. A female inmate inside a facility in the postpartum recovery period may only be restrained in an “important circumstance.” In such an “important circumstance,” the bill permits the use of wrist handcuffs held in front of the female inmate’s body when she is ambulatory.

An “important circumstance” is defined as one in which an officer is required to make an individualized determination that there are reasonable grounds to believe that the female incarcerated person presents a threat of harming herself, the fetus, or any other person, or that she presents an escape risk that cannot be reasonably contained by other means, including the use of additional personnel.

The bill does not prohibit the use of wrist restraints or handcuffs when a female inmate is being transported outside of a facility unless she is in labor or suspected to be in labor.

2. State correctional facility employees and local confinement facility employees, other than certified healthcare professionals, are prohibited from conducting a body cavity search of an incarcerated woman who is pregnant or in postpartum recovery unless the employee has probable cause to believe the woman is concealing contraband that would present a threat of harm to herself, the fetus, or another person.

The bill requires an employee who conducts such a search to submit a written report within 5 days of conducting the search justifying the search and stating the presence or absence of contraband.

3. The bill prohibits the placement of an incarcerated woman who is pregnant or in postpartum recovery in restrictive housing absent an “important circumstance.” The authorizing employee is required to submit a report to the applicable facility administrator



within 5 days of the transfer justifying the placement of the incarcerated woman in restrictive housing.

However, the bill allows the incarcerated woman who is pregnant to be housed in single cell accommodations at the request of the woman, due to a threat of harm to the woman or to the fetus, due to medical reasons other than pregnancy, or because single cell accommodations are provided to all other inmates at the facility or to all inmates of a certain sex or gender at the facility.

4. The bill requires the North Carolina Department of Public Safety (DPS), State correctional facility administrators, sheriffs, and local confinement facility administrators to do the following with respect to female inmates: (1) provide adequate daily food and dietary supplements to a pregnant inmate as ordered by a physician or correctional facility nutritionist; (2) assign the inmate who is pregnant or in postpartum recovery a bed that is no higher than 3 feet off the ground; (3) allow a bonding period with the newborn (i.e. allow the newborn to remain with the incarcerated woman) for an inmate who has just given birth while the inmate remains in the hospital, unless a medical provider believes it poses a health or safety risk to the newborn; and (4) provide postpartum nutrition and hygiene supplies to an incarcerated woman in postpartum recovery.
5. The bill requires, to the extent practicable, DPS to place female inmates who are parents to minor children under the age of 1 within 250 miles of the child's permanent address of record. DPS and State correctional facility administrators must also adopt more relaxed visitation rules for incarcerated mothers of minor children under the age of 1 that have low or minimum-security classifications. This provision will apply to DPS and State correctional facility administrators only. The bill does not create these requirements for local confinement facilities.
6. Inspection by male State correctional or local confinement facility employees of female inmates who are in a state of undress must be limited to the greatest extent practicable and consistent with safety. This does not apply if a female employee is not available to conduct the inspection within a reasonable period of time.

A state of undress is defined as a situation when an incarcerated person is partially or fully naked, either in the shower, toilet areas, a medical examination room, or while having a body cavity search conducted.

If a male facility employee deems it appropriate to conduct an inspection or search while the female inmate is in a state of undress, the male facility employee must submit a written report to the applicable facility administrator containing the justification for that search or inspection within five (5) days following the search or inspection.

7. DPS, State correctional facility administrators, sheriffs, and local confinement facility administrators must ensure incarcerated women at the facility have access to menstrual products at no cost.

8. DPS must develop, in consultation with the North Carolina Department of Health and Human Services, Divisions of Public Health and Mental Health, Developmental Disabilities, and Substance Abuse Services, training for State prison employees related to the physical and mental health of pregnant women and fetuses.
9. DPS must also develop and provide educational programming to incarcerated pregnant women in State prisons related to prenatal care, pregnancy-specific hygiene, parenting skills, the impact of drugs and alcohol to the fetus, and the general health of children.

Effective: December 1, 2021 and applies to individuals in custody on or after that date.

[HOUSE BILL 692](#), [Restrict Certain Vehicle Modifications](#), amends G.S. 20-135.4 to prohibit a private passenger automobile, defined in the law as “a four-wheeled motor vehicle designed principally for carrying passengers on public roads and highways,” from being operated in or upon a highway or public vehicular area if the height of the front fender of the automobile is, by alteration of the suspension, frame, or chassis, 4 or more inches greater than the height of the rear fender, as measured from the ground, through the centerline of the wheel, to the bottom of the fender.

Previously, the manufacturer’s specified height of any passenger motor vehicle could not be elevated or lowered more than 6 inches, “either in front or back,” without the prior written approval of the Commissioner of Motor Vehicles. Violation of G.S. 20-135.4 is an infraction.

The bill also amends G.S. 20-17 and G.S. 20-19 to provide that a third or subsequent conviction of operating a vehicle with the above modifications shall result in license revocation by the North Carolina Division of Motor Vehicles for one year or more.

A “third or subsequent conviction” is defined under amended G.S. 20-17 as a conviction for a violation of G.S. 20-135.4 occurring when the person has two or more previous convictions under G.S. 20-135.4 that occurred within 12 months immediately preceding the date of the current offense.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

[HOUSE BILL 734](#), [Dept. of Health & Human Services Revisions](#), amends G.S. 122C-263, G.S. 122C-266, G.S. 122C-283, and G.S. 122C-285 to allow the first and second examinations required to be performed when an individual is being involuntarily committed due to mental illness or substance abuse to be performed using “telehealth,” provided that the examining physician is satisfied to a reasonable medical certainty that the determinations made using telehealth services would not be different from the determinations made if the examination had been conducted in person.

“Telehealth” is defined as the use of two-way, real-time interactive audio and video where the respondent and commitment examiner can hear and see each other.

Previously, the first examinations for involuntary commitment due to mental illness or substance abuse could be performed via “telemedicine.” However, the second examinations for those involuntary commitment (IVC) procedures had to be performed in-person.

“Telemedicine” was previously defined as the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations.

Effective: July 2, 2021 and applies to examinations performed on or after that date.

[HOUSE BILL 743](#), Remove ID Mark/Increase Punishment, amends G.S. 14-160.1(c) to change the penalty for altering, removing or destroying the serial number or other manufacturer’s mark on an item of personal property with the intent to conceal or misrepresent the identity of the item or for knowingly selling, buying, or being in possession of an item of personal property with its serial number or other manufacturer’s mark altered, removed or destroyed for that purpose.

If the personal property is valued at one thousand dollars (\$1,000) or less, a violation is a Class 1 misdemeanor. However, if the personal property is valued at more than one thousand dollars (\$1,000), the penalty increases and the offense will constitute a Class H felony.

Previously, unless the conduct was covered under some other provision calling for greater punishment, a violation of this statute constituted a Class 1 misdemeanor.

The bill also amends G.S. 14-401.4(d) in the same way, changing the penalty for altering, removing, covering, or destroying the serial number or other manufacturer’s mark on machinery or for selling, trading, or transferring such machinery with its serial number or other manufacturer’s mark obliterated.

If the machine or other apparatus is valued at one thousand dollars (\$1,000) or less, it is a Class 1 misdemeanor. However, if the machine or other apparatus is valued at more than one thousand dollars (\$1,000), the penalty increases and the offense will constitute a Class H felony.

Previously, a violation of this statute constituted a Class 1 misdemeanor.

Effective: December 1, 2021 and applies to offenses committed on or after that date. The bill does not affect prosecutions for offenses committed before the effective date.

[HOUSE BILL 761](#), Police Vehicle and Equipment Protection Act, amends G.S. 14-56 to make it a Class H felony to break or enter into, with the intent to commit a felony or larceny therein, any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind that is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States if the person knows or reasonably should know that the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft is owned or operated by any of the above listed entities.

It remains a Class I felony to break or enter into, with the intent to commit a felony or larceny therein, any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind that is not owned or operated by any of the above listed entities.

The bill also enacts G.S. 14-72.9 to create the new criminal offense of “Larceny of law enforcement equipment.” Under newly enacted G.S. 14-72.9, it is a Class H felony to commit larceny of law enforcement equipment from a law enforcement vehicle if the person knows, or reasonably should know, that the vehicle was a law enforcement vehicle and that the property was law enforcement equipment. The bill also makes it a Class G felony if the person committed larceny of law enforcement equipment and the law enforcement equipment is valued in excess of \$1,000.

Newly enacted G.S. 14-72.9 defines law enforcement equipment as any equipment owned or operated by a law enforcement agency and used by law enforcement agencies to conduct law enforcement operations, including firearms and any other type of weapon, ammunition, radios, computers, handcuffs and other restraints, phones, cell site simulators, light bars and sirens. Law enforcement vehicle means any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.

Finally, the bill amends G.S. 15A-145.5(c1)(1) to require an individual petitioning to have one or more non-violent misdemeanors expunged to submit an affidavit affirming that they have not been convicted of any other felony or misdemeanor, other than a traffic violation, within the applicable 5-year or 7-year waiting period.

The bill’s amendment to the statute also requires an individual petitioning to have one or more non-violent felonies expunged to submit an affidavit affirming that they have not been convicted of any misdemeanor within 5 years preceding the petition or any felony within the applicable 10-year or 20-year waiting period.

Previously, Session Law 2021-118, Expand Expunction Eligibility, required a petitioner seeking to expunge non-violent felonies to affirm through affidavit that they had not been convicted of any misdemeanor in the applicable 10-year or 20-year waiting period even though the law allowed expungement as long as the petitioner was not convicted of a misdemeanor within 5 years preceding the petition. This amendment is a technical correction to eliminate that inconsistency.

Effective: December 1, 2021 and applies to offenses committed and petitions filed on or after that date.

[HOUSE BILL 814](#), [Neighborhood Occupantless Vehicle](#), amends G.S. 20-4.01 to add the definition “neighborhood occupantless vehicle,” which is defined as “a low-speed vehicle that is also a fully autonomous vehicle, designed to be operated without an occupant and used to transport cargo.”

Existing 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 portion of the dynamic driving task when the automated driving system is engaged.”

The bill also enacts G.S. 20-121.2 which specifies that neighborhood occupantless vehicles: (1) may only be operated on streets and highways where the posted speed limit is 45 miles per hour or less; (2) must be operated in the right-hand travel lane or as close as practicable to the right-hand curb or edge of the street or highway, except when executing a left-hand turn; and (3) must turn off of a highway with two travel lanes and come to a controlled stop as soon as it is practicable and safe to do so to allow faster moving vehicles to pass when (a) passing is unsafe because of traffic in the opposite direction or other conditions and (b) when there are five or more vehicles immediately behind the neighborhood occupantless vehicle.

Newly enacted G.S. 20-121.2 also specifies that a fully autonomous vehicle that is designed to be operated exclusively by an automated driving system is not subject to any State law or regulation requiring the installation, maintenance, or inspection of vehicle equipment that relates to or supports motor vehicle operation by a human driver but is not necessary for operation by an automated driving system alone (such as windshield wipers).

Existing G.S. 20-400 defines an “automated driving system” as the “hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is operating within a limited or unlimited operational design domain.”

Effective: December 1, 2021

[HOUSE BILL 890](#), [ABC Omnibus Legislation](#), makes various changes to the laws surrounding the North Carolina Alcoholic Beverage Control (ABC) Commission and the sale of alcoholic beverages. Of interest to the criminal justice community, the bill:

1. Amends G.S. 18B-800 to allow ABC stores to accept online orders from individuals allowed to legally consume and purchase alcohol within the State, provided, and as verified by an employee of the ABC store, the product is picked up in-person at the store by the individual who placed the order.

Effective: October 1, 2021 and applies to sales on or after that date.

2. Amends G.S. 18B-800 to allow a manufacturer, distiller, broker or supplier of spiritous liquor to affix personalized labeling to special orders of spiritous liquor on the special item list approved by the ABC Commission, provided the labeling complies with any other labeling requirements set by law and does not cover any portion of the manufacturer’s original label.

Effective: October 1, 2021 and applies to spiritous liquor sold on or after that date.

3. Amends 18B-1105 to allow distilleries to sell spiritous liquor distilled at the distillery in closed containers for consumption off-premises between the hours of 12:00 noon and 9:00

PM on Sundays and between the hours of 9:00 AM and 9:00 PM on each of the following holidays that do not fall on a Sunday: New Year's Day, Fourth of July, Labor Day, and Thanksgiving Day.

Previously, distilleries were not allowed to sale spiritous liquor on Sundays or any of the aforementioned holidays.

Effective: October 1, 2021 and applies to sales on or after that date.

4. Amends G.S. 18B-302 to allow as a defense to the sale of alcoholic beverages to underage persons the fact that the purchaser showed a special ID card issued by a State agency of another state that showed the purchaser's age to be at least the required age for purchase and that bore a physical description of the purchaser.

Previously, the special ID card had to be issued by the State of North Carolina for the defense to apply.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

5. Enacts G.S. 153A-145.9 and G.S. 160A-205.4, allowing cities and counties to adopt ordinances designating a "social district," defined as a defined outdoor area, not including a permittee's licensed premises or extended area under newly enacted subsection (h) of G.S. 18B-904, in which a person may consume alcoholic beverages sold by a permittee.

This section of the bill also enacts G.S. 18B-904.1, which regulates the creation and operation of social districts and, among other requirements:

- a. Requires any social district to be clearly defined and posted;
- b. Requires any city or county establishing such a district to establish and post on the city's or county's website a management and maintenance plan and to submit to the ABC Commission a detailed map of the district;
- c. Restricts permittees located in or contiguous to a social district selling alcoholic beverages for consumption within the district to selling such beverages only on their licensed premises in special containers;
- d. Requires a permittee located in or contiguous to a social district to prevent persons from entering or reentering its licensed premises with an alcoholic beverage not sold by that permittee; and
- e. Requires any person to dispose of any alcoholic beverage in the person's possession prior to exiting a social district unless they are reentering the licensed premises where the alcoholic beverage was purchased.

Effective: September 10, 2021

6. Enacts G.S. 153A-145.10 and G.S. 160A-205.5, allowing cities and counties to adopt ordinances allowing permittees to utilize an area that is not part of their licensed premises (extended area) for outdoor possession and consumption of alcoholic beverages sold by the permittee.

This section of the bill also amends G.S. 18B-904 to include a new subsection (h), which regulates how a permittee may utilize an extended area and requires that:

- a. An ordinance authorizing permittees to expand their licensed premises first be passed by the applicable governing body;
- b. If the extended area is not owned by the permittee, a permittee obtain written permission from the owner allowing use of the property for outdoor possession and consumption of alcoholic beverages sold by the permittee;
- c. A permittee maintain a diagram of the size and location of the extended area on its licensed premises and provide written notification, including the diagram and, if applicable, written permission from the owner of the extended area, to the district office of the Alcohol Law Enforcement (ALE) Division and any local law enforcement agency with jurisdiction over the licensed premises; and
- d. A person not exit the extended area with an alcoholic beverage purchased from the permittee unless the person is in a social district or reentering the licensed premises of the permittee.

Effective: September 10, 2021

7. Amends G.S. 18B-502 to specify that ALE agents, employees of the ABC Commission, local ABC officers, and local law enforcement agencies that have contracted to provide ABC enforcement have authority to investigate and inspect any social district or extended area for evidence of violations of ABC law.

Effective: September 10, 2021

8. Amends G.S. 18B-103 to allow persons to trade or exchange lawfully purchased spiritous liquor for other lawfully purchased spiritous liquor so long as the trade or exchange is between individuals for personal use and not for resale, the liquor has been approved by the ABC Commission and is not unfit for human consumption, and the liquor is not antique spiritous liquor as defined in G.S. 18B-101(5a).

Effective: October 1, 2021 and applies to trades and exchanges on or after that date.



9. Amends G.S. 18B-101 to include the new definition of “alcohol consumable,” defined as “any manufactured and packaged ice cream, ice pop, gum-based, or gelatin-based food product containing at least one-half of one percent (0.5%) alcohol by volume,” and to change the definition of “alcoholic beverage” to include alcohol consumables.

With this change, alcohol consumables are brought under the statutory and regulatory framework of Chapters 18B and 105 of the General Statutes and the ABC Commission.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

10. Amends G.S. 18B-1001 to allow the ABC Commission to issue a permit to a common carrier of passengers, as defined in G.S. 20-4.01(27)(d), authorizing the common carrier to sell malt beverages, unfortified wine, fortified wine, and mixed beverages in the passenger area of the common carrier for consumption by passengers during journeys of 75 miles or longer that do not terminate within 10 miles of the origin of the journey.

The permit does not allow sales or service of alcoholic beverages between the hours of 2:00 AM and 7:00 AM, the consumption of alcoholic beverages between the hours of 2:30 AM and 7:00 AM, or the sale or consumption of alcohol before 10:00 AM on Sundays.

Effective: December 9, 2021

11. Amends G.S. 18B-401 to allow common carriers with a common carrier permit to transport opened containers of fortified wine or spiritous liquor in the passenger area of a motor vehicle.

Effective: December 9, 2021

## SENATE BILLS

[SENATE BILL 66](#), Regulate Use of Deer Secretions for Hunting, directs the North Carolina Wildlife Resources Commission to adopt a permanent rule prohibiting the possession or use of any substance or material by a person that contains or is labeled as containing any excretion from a cervid (an animal in the deer family), including feces, urine, blood, gland oil, or other bodily fluid for the purpose of taking or attempting to take, attracting, or scouting wildlife.

The bill exempts several products from this prohibition, such as products containing synthetic analogs of deer secretions, products containing natural substances collected by a hunter from a legally harvested cervid in North Carolina, natural substances and deer urine products coming from North Carolina facilities that have a valid Farmed Cervid License from the North Carolina Department of Agriculture and Consumer Services, and natural deer urine products from facilities that meet certain State and federal certification protocols and disease testing requirements.

The bill directs the North Carolina Wildlife Resources Commission to implement the above rule until the permanent rule that it is required to be adopted under the bill becomes effective.

The purpose of the bill is to protect North Carolina’s cervid population from chronic wasting disease—a contagious, neurological disease occurring in North American cervids that is fatal once symptoms arise. Currently, all cervid excretions may be possessed and used for hunting purposes in North Carolina.

Effective: November 10, 2021 and applies to any cervid excretions used for hunting on or after December 1, 2021.

[SENATE BILL 69](#), [DMV Licensing Requirements](#), amends G.S. 20-11 to reduce the amount of time a person with a learner’s permit must wait before obtaining a limited provisional license. The bill decreases the amount of time from 12 months to 6 months for individuals who are at least 16 years old but less than 18 years old.

Effective: May 24, 2021 and applies to applications for licenses submitted on or after that date.

Note: This provision of law expires on December 31, 2022. [Senate Bill 69](#) provides that this provision expires on December 31, 2021, but Session Law 2021-134 amended this statute again to move the expiration date to December 31, 2022.

[SENATE BILL 99](#), [Clarify Law on Theft of Catalytic Converters](#), makes various changes to the laws related to theft of motor vehicle parts and to the regulation of secondary metals recyclers. Of interest to the criminal justice community, the bill:

1. Amends G.S. 14-72.8 to provide that larceny of motor vehicle parts is a Class I felony if the cost of repairing the motor vehicle is \$1,000 or more or the motor vehicle part stolen is a catalytic converter (regardless of its value).

Amended G.S. 14-72.8 also establishes a legal presumption that a person in possession of an unattached catalytic converter is guilty of felony larceny of motor vehicle parts unless they: (1) are an employee of or agent for a motor vehicle dealer, motor vehicle repair shop, secondary metals recycler, or salvage yard that is properly licensed, permitted, or registered under State law, or (2) possess documentation indicating that the catalytic converter in their possession is the result of a replacement of a catalytic converter on a vehicle registered to them.

Previously, there was no provision in the statute specifically pertaining to unattached catalytic converters and no legal presumption pertaining to their possession.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

2. Amends G.S. 66-421 to require a secondary metals recycler to keep an electronic record of all purchases of regulated metals property, including a copy of all documentation relied upon by the secondary metals recycler in determining the status of the seller of a catalytic converter.

Previously, secondary metals recyclers were required to maintain a record of all regulated metals purchases, but the law did not specify that such record must be in an electronic format.

Effective: December 1, 2021 and applies to purchases and transactions on or after that date.

3. Amends G.S. 66-424 to prohibit any person not a secondary metals recycler from purchasing an unattached catalytic converter and to prohibit a secondary metals recycler from purchasing any catalytic converters not attached to a vehicle, except when the seller is in possession of documentation that indicates the catalytic converter in their possession is the result of the replacement of a catalytic converter on a vehicle registered to the seller.

Amended G.S. 66-424 does not apply to the purchase of used and detached catalytic converters tested, certified, labeled, and approved for reuse in accordance with the federal Clean Air Act (42 U.S.C. 7401, *et seq.*) and any regulations enacted thereunder.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

4. Amends G.S. 66-429 to provide that any person knowingly and willfully violating any of the provisions involving the purchase of a catalytic converter shall be fined \$1,000 for each violation, in addition to any criminal punishment imposed by law (a Class 1 misdemeanor for a first conviction and a Class I felony for a second or subsequent conviction).

Effective: December 1, 2021 and applies to offenses committed on or after that date.

[SENATE BILL 105](#), 2021 Appropriations Act, is this year's State budget bill that contains many provisions that impact the criminal justice system with varying effective dates, as noted below. Those provisions of interest to the criminal justice community within this year's State budget bill include:

1. The bill amends G.S. 115C-105.57 to expand the powers and duties of the Center for Safer Schools (CSC) of the North Carolina Department of Public Instruction. Under these expanded duties the CSC will provide training and resources for school personnel and first responders on topics such as: (i) responsibilities and best practices of school resource officers; (ii) youth mental health, including applicable policies and plans adopted by the State Board of Education; (iii) threat assessment; (iv) active-shooter drills and scenarios; and (v) incident de-escalation.

The expanded powers and duties of the CSC also include: (i) assisting law enforcement officers assigned to schools and their agencies in active shooter response drills and other pertinent school safety-related training; (ii) collaborating with the North Carolina Justice Academy, the North Carolina Sheriffs' Education and Training Standards Commission, and the North Carolina Criminal Justice Education and Training Standards Commission to establish and maintain updated training curriculum for school resource officers; and (iii) coordinating grants for school resource officers in elementary and middle schools and

ensuring that training requirements for school resource officers funded by those grants are met.

Finally, the bill requires local law enforcement agencies, the North Carolina Department of Public Safety, and the North Carolina Justice Academy to provide information, upon request, to the CSC so its duties may be carried out. The bill does not specify or limit what information may be obtained by the CSC.

Effective: November 18, 2021

2. The bill appropriates, effective July 1, 2021, \$25,000 to the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for each year of the 2021-2023 fiscal biennium for the purpose of purchasing opioid antagonists for distribution to North Carolina law enforcement agencies at no cost to the law enforcement agency.
3. The bill amends G.S. 15A-145.9 to require the court to waive the court costs associated with obtaining an expunction for a victim of human trafficking that has applied for an expungement of a criminal offense that was associated with human trafficking.

Currently, our State expungement laws allow a victim of human trafficking to obtain an expunction of a nonviolent misdemeanor or felony conviction so long as the court finds that the victim was “coerced or deceived” into committing the offense(s) as a result of being the victim of human trafficking.

Effective: December 1, 2021 and applies to expunction costs incurred on or after that date.

4. The bill makes various changes to the North Carolina Drug Treatment Court Act (more commonly known as drug treatment court) contained in Article 62A of Chapter 7A of the North Carolina General Statutes. The bill renames the Drug Treatment Court Act the “Judicially Managed Accountability and Recovery Court Act of 2021.” In doing so, local drug courts will become known as “recovery courts.”

In addition, the bill removes all references in the statutes governing the Act that refer to “drug” use, abuse or dependency and replaces them with the word “substance.”

The bill provides that the North Carolina Administrative Office of the Courts will administer funding received for the administration of the Act. Currently, the Director of the Administrative Office of the Courts administers funding for the Act in consultation with the State Drug Treatment Court Advisory Committee.

Finally, the bill amends G.S. 7A-796 to add a requirement that the sheriff or sheriff’s designee be appointed to the local “recovery court committee” (currently known as a drug treatment court management committee) if the judicial district in which the sheriff serves has created such a committee. The bill maintains the current requirement that a “local law

enforcement officer” must serve on these local committees, in addition to other criminal justice professionals designated in the statute.

Effective: January 1, 2022

5. The bill amends G.S. 15A-1225.3 to allow remote testimony in district court by an analyst and any person in the chain of custody regarding the results of a forensic test if the State: (1) has provided a copy of the report to the defendant’s attorney of record, or to the defendant if unrepresented; and (2) has notified the defendant’s attorney of record, or the defendant if unrepresented, at least 15 business days before the proceeding of the State’s intent to use remote testimony to introduce the results of forensic testing. Neither the defendant nor the defendant’s attorney can object to the use of remote testimony in this context if given proper notice by the State.

Currently, in both district and superior court, only analysts are permitted to provide remote testimony of the results of forensic testing, provided the State follows proper notice procedures, provides a copy of the report and the defendant fails to object. The bill would not allow remote testimony to establish chain of custody for forensic evidence in superior court or juvenile delinquency proceedings.

The bill also amends G.S. 20-139.1 to provide the same authority for remote testimony in district court by a chemical analyst and each person in the associated chain of custody regarding the results of a chemical analysis of blood or urine.

Currently, if the State follows proper notice procedures, provides a copy of the report and the defendant fails to object, only analysts are permitted to provide remote testimony of the results of a chemical analysis of blood or urine. The bill likewise would not allow remote testimony to establish chain of custody for analyzed blood or urine in superior court.

Effective: January 1, 2022 and applies to criminal proceedings, administrative hearings, and adjudicatory hearings in juvenile court beginning on or after that date.

6. The bill enacts new G.S. 114-63.1, effective July 1, 2021, to continue the long-standing prohibition on the North Carolina Department of Justice hiring sworn law enforcement personnel to fill vacant positions in the North Carolina State Crime Laboratory. However, the bill does not require the North Carolina State Crime Laboratory to terminate the employment of current employees that are sworn law enforcement officers and who annually continue to meet the sworn status retention standards of the North Carolina Criminal Justice Education and Training Standards Commission.

This enactment simply conforms to policy that has been in place for many years prohibiting the hiring of sworn law enforcement personnel to fill vacant positions in the North Carolina State Crime Laboratory.

7. The bill enacts new G.S. 143B-907 to prohibit any State agency or political subdivision of the State (such as a city or county) from creating or maintaining a database that compiles

and makes available to the public information or data regarding disciplinary actions taken against law enforcement officers or critical incidents involving law enforcement officers unless the General Assembly enacts a law specifically authorizing a State agency or political subdivision of the State to create or maintain such a database.

[Senate Bill 300, Criminal Justice Reform](#), enacted into law this legislative Session, requires the North Carolina Sheriffs' Standards Division and the North Carolina Criminal Justice Standards Division to create and maintain such databases. [Senate Bill 300](#) defines a critical incident as one involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.

Effective: November 18, 2021 and applies to databases created before, on or after that date.

8. The bill amends G.S. 17C-20 to allow a person to apply for a Criminal Justice Fellows Program grant in a county with a population less than 200,000 according to the latest federal decennial census. The bill also amends G.S. 17C-22 to eliminate the previous requirement that the applicant for a Criminal Justice Fellows Program grant reside in a county that qualifies to receive grant funds. Previously, an applicant for a Criminal Justice Fellows Program grant was required to reside in an eligible county, which was a county with a population less than 125,000 or a county designated as a Tier I county.

The Criminal Justice Fellows Program is administered by the North Carolina Criminal Justice Education and Training Standards Commission and was created to increase the recruitment of criminal justice professionals by providing loan forgiveness to qualified individuals that earn an Applied Associate Degree in Criminal Justice.

Effective: November 18, 2021 and applies to Criminal Justice Fellows Program applicants selected on or after that date.

9. Effective July 1, 2021, the bill requires the North Carolina Department of Justice (DOJ) to use up to \$1.5 million in appropriated funds to conduct a study on the establishment of an Eastern Regional Laboratory (Crime Laboratory) that would be located on the campus of Elizabeth City State University. The bill requires DOJ to report on the study to the Chairs of the House Justice and Public Safety Appropriations Committee, the Chairs of the Senate Appropriations on Justice and Public Safety Committee, and the Fiscal Research Division no later than February 1, 2023.

The bill also requires the DOJ report to include: (1) the estimated cost of completing the Crime Laboratory; (2) the estimated cost of operating the Crime Laboratory during its first five years of operation; (3) an estimated timeline for completion of the Crime Laboratory; and (4) any other information DOJ deems relevant.

10. Effective July 1, 2021, the bill appropriates to the North Carolina Department of Public Safety \$7.5 million in nonrecurring funds for the 2021-2022 fiscal year to provide direct grants to North Carolina sheriffs' offices in counties with populations of fewer than 210,000 people for expenses incurred in enforcing the laws of this State and carrying out other duties set by law.

The bill provides that the above appropriated funds will supplement and not supplant local funding for sheriffs' offices.

11. Effective July 1, 2021, the bill appropriates \$3 million in nonrecurring funds to the North Carolina Department of Public Safety in the 2021-2022 fiscal year to be used to award grants to sheriffs' offices and other local law enforcement agencies to investigate reports of internet crimes against children.

The bill requires the North Carolina Sheriffs' Association to administer this grant program. The Association must develop guidelines and procedures for the administration and distribution of grant funds. The maximum grant amount will be \$75,000 per recipient per fiscal year and the sheriff's office or local law enforcement agency receiving grant funds will be required to enter into a memorandum of agreement with the North Carolina State Bureau of Investigation that governs the investigation of internet crimes against children.

In addition, the bill requires the North Carolina Sheriffs' Association to provide reports to the Joint Legislative Oversight Committee on Justice and Public Safety, the House and Senate Appropriations Committees on Justice and Public Safety, and the Fiscal Research Division as follows:

- (i) A report on the guidelines and procedures that will govern distribution and administration of grant funds no later than February 1, 2022. This due date was changed to April 1, 2022 by Session Law 2021-189.
- (ii) As long as funds remain, no later than October 1 of each year, a report on the grant funds distributed each year of the 2021-2023 fiscal biennium.

Finally, the bill provides that the above appropriated funds will supplement and not supplant local funding for sheriffs' offices.

12. The bill amends G.S. 143B-1203 to transfer the North Carolina Criminal Justice Information Network (CJIN) from the North Carolina Department of Information and Technology to the North Carolina Department of Public Safety (DPS).

CJIN is a statewide criminal justice infrastructure that allows the sharing of information between State and local criminal justice agencies. CJINs governing Board, among other things, provides assistance with or coordinates projects that will provide more effective communication between law enforcement agencies across the State, such as the updating of North Carolina's Statewide Automated Fingerprint Identification System (SAFIS) and the North Carolina Automated Warrant Repository (NCAWARE).



The bill amends G.S. 143B-1206 to expand the CJIN Board's powers and duties to include: (1) employing the services of an Executive Director who would report exclusively to the governing Board; (2) exercising administrative control over the operational budget established by the governing Board and appropriated by the General Assembly; and (3) exercising sole authority over employee positions allotted to the Board, including the authority to establish qualifications, classifications, and salary levels for its employees and determining appropriate methods of screening for candidates, interviewing, hiring, and day-to-day management of Board employees.

Finally, the bill appropriates to DPS \$202,000 in recurring funds each year for the 2021-2022 fiscal year and the 2022-2023 fiscal year to facilitate the Type II transfer of the CJIN Board, staff, and operations to DPS.

Effective: January 1, 2022

13. The bill requires the North Carolina Department of Public Safety (DPS) to use \$2 million in recurring funds appropriated to it in each fiscal year of the 2021-2023 biennium to provide competitive grants to sheriffs' offices for the purposes of assisting those offices in the establishment, maintenance, or expansion of jail Medication-Assisted Treatment (MAT) programs for alcohol or opioid addiction.

The bill requires that, of the \$2 million in recurring funds earmarked in each fiscal year, \$750,000 must be allotted for the establishment of new MAT programs, \$750,000 must be allotted for the expansion of existing MAT programs, and \$500,000 must be allotted for the maintenance of existing MAT programs. If qualified grant applications do not exhaust the funds allotted for each category, the remaining funds may be redistributed equally among the other categories.

The bill prohibits any one sheriff from receiving grants in more than one category for which the funds are allotted (establishment, expansion, or maintenance) and prohibits any one sheriff from receiving grants under the program totaling \$500,000 or more in each fiscal year.

The bill also requires DPS to prioritize the award of grants based upon the rate of opioid-related deaths per county, the rate of opioid-related hospital admissions per county, the rate of violations of probation or parole due to ongoing opioid or alcohol use per county and the accessibility of mental and physical health care in each county.

The bill also requires the Secretary of Public Safety to convene a working group, comprised of relevant stakeholders, to establish operational criteria and an application process for the grant program, to communicate information regarding the grant program to sheriffs' offices in the State, and to evaluate applications for grants under the program.

Finally, no funds appropriated for the grant program will revert until June 30, 2023.

Effective: July 1, 2021

14. The bill funds 3 Support Team Assisted Response (STAR) pilot programs in the cities of Charlotte, Greensboro, and Greenville, which will provide alternative responses to citizens in crisis. The bill appropriates to the North Carolina Department of Public Safety \$990,000 in nonrecurring funds for the 2021-2022 fiscal year to establish the STAR pilot programs in these cities.

Each program is required to allow behavioral and medical health personnel to respond to nonviolent situations as deemed appropriate by the city police department and requires those responding on behalf of the STAR program to be equipped to provide information to individuals regarding shelter, food aid, counseling, and medication.

The bill also requires the North Carolina Department of Public Safety, in consultation with the city police departments of Charlotte, Greensboro, and Greenville, to report to the Joint Legislative Committee on Justice and Public Safety no later than April 1, 2022 regarding: (i) the general progress of each STAR program; (ii) the number of incidents in which each police department utilized its STAR program; (iii) the outcomes of incidents involving STAR program response, and (iv) an itemized accounting of each police department's use of funds received for the pilot STAR programs.

Finally, the bill requires the North Carolina Department of Public Safety to also disseminate the above-described report to the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission ("the Commissions") no later than April 1, 2022 and requires the Commissions, no later than May 1, 2022, to make the report publicly available on their websites and jointly deliver an electronic copy of the report to each sheriff and municipal chief of police in the State.

Effective: July 1, 2021

15. Effective July 1, 2021, the bill authorizes the State Capitol Police to contract with State agencies to provide security services in the buildings occupied by those agencies.
16. Effective July 1, 2021, 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, or repair or construction of buildings without having the prior approval of the General Assembly.
17. Effective June 30, 2023, the bill amends G.S. 143B-926 to make the term of service for the Director of the North Carolina State Bureau of Investigation (SBI) six years. Currently, the Director of the SBI is appointed by the Governor to serve for a term of eight years. This provision that is effective June 30, 2023 will coincide with the end of current SBI Director Bob Schurmeier's first term.

18. Effective July 1, 2021, the bill requires the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice (DACJJ), to report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for DACJJ employees no later than February 1, 2022 and also by February 1, 2023:
- (i) The number of employees charged with a criminal offense that occurred in a State prison and during the employee’s work hours.
  - (ii) The number of employees disciplined, demoted, or separated from service due to misconduct.
  - (iii) A description of the screening process used to select and hire employees, including the process used to verify the information provided by an applicant.
19. Effective July 1, 2021, the North Carolina Department of Public Safety will continue to be authorized to pay the sum of \$40 per day as reimbursement to counties for the cost of housing backlogged convicted inmates remaining in a county jail who were sentenced to imprisonment in the State prison system.
20. The bill makes various amendments to the North Carolina General Statutes to separate the Division of Adult Correction and Juvenile Justice (DACJJ) from the North Carolina Department of Public Safety (DPS). The bill establishes the “Department of Adult Correction” as its own unified cabinet-level department with a Secretary appointed by the Governor and transfers several divisions, programs, and entities from DPS. Included in this restructuring is the creation of the new “Division of Prisons” within the Department of Adult Correction. The new Secretary of the Department of Adult Correction will also serve as a voting member of the Governor’s Crime Commission.

The bill appropriates \$2 million in recurring funds for the 2022-2023 fiscal year to provide funding to establish the separate Department of Adult Correction within the Governor’s Cabinet.

The bill also establishes the separate “Division of Juvenile Justice” of the North Carolina Department of Public Safety. Currently, Juvenile Justice is a separate section within DACJJ and is not operating as a separate division within the North Carolina Department of Public Safety. The bill appropriates to DPS \$1.3 million in recurring funds for the 2022-2023 fiscal year to establish the separate Division of Juvenile Justice within DPS.

Finally, the bill creates the new “Division of Community Supervision and Reentry” within DPS, which will be responsible for probationers and parolees. Currently, Community Corrections is a section within DACJJ and is not operating as a separate division within the North Carolina Department of Public Safety.

Effective: January 1, 2023

21. Effective January 1, 2023, the bill amends G.S. 17C-3 to increase the members of the North Carolina Criminal Justice Education and Training Standards Commission from 34 to 35 members to include the Secretary of the newly created “Department of Adult Correction.”
22. The bill authorizes sheriffs to utilize inmates of the Statewide Misdemeanant Confinement Program (SMCP) for litter cleanup along local and State roadways. The bill requires sheriffs to coordinate with the North Carolina Department of Transportation before allowing SMCP inmates to work in this capacity to avoid duplicative cleanup work with DOT crews. The bill also requires sheriffs to ensure that SMCP inmates are “adequately guarded” while conducting roadway cleanup, in addition to ensuring the inmates are fed, hydrated, and are provided bathroom breaks.

The bill allows sheriffs to receive reimbursement in the amount of \$60 per day, per inmate held under the Statewide Misdemeanant Confinement Program for each calendar month in which a combined total of 500 work hours were completed cleaning roadways through that sheriff’s office. Currently, the State reimbursement to the sheriff under the SMCP program is \$40 per day, per inmate. Participating sheriffs are required to comply with all requirements established by SMCP for this program in order to certify the hours worked by inmates and to confirm funding availability.

Finally, the bill requires the North Carolina Sheriffs’ Association to report monthly to the Office of State Budget and Management and to the Fiscal Research Division the number of counties utilizing SMCP inmates for roadway cleanup, the total number of hours worked by the inmates and the miles of roadway cleaned.

The Association must also make a similar report annually to the House Appropriations Committee on Justice and Public Safety, to the Senate Appropriations Committee on Justice and Public Safety, to the Joint Legislative Oversight Committee on Justice and Public Safety, and to the Joint Legislative Transportation Oversight Committee.

Effective: November 18, 2021

23. Effective November 18, 2021, the bill transfers Odom Correctional Institution (consisting of approximately 64 acres) to the Northampton County Board of Commissioners for the sum of One Dollar. This transfer is contingent on the continued use of the property for county government purposes. The bill requires the property to revert to the State (transfer back) should Northampton County stop using the property for local government purposes.
24. The bill enacts new Article 84 within Chapter 143 of the North Carolina General Statutes to prohibit any State agency or local government entity (such as the sheriff’s office) from submitting any payment or otherwise communicating with any entity that has engaged in a cybersecurity attack on an information technology system by encrypting data and then subsequently offering to decrypt that data in exchange for a ransom payment.

The bill defines “ransomware attack” to mean a cybersecurity incident where a malicious actor introduces software into an information system that encrypts data and renders the

systems that rely on that data unusable, followed by a demand for a ransom payment in exchange for decryption of the affected data.

The bill also requires any State agency or local government entity experiencing a ransom request in connection with a cybersecurity attack to consult with the North Carolina Department of Information Technology.

Effective: November 18, 2021

25. The bill enacts new G.S. 136-27.3A to allow the North Carolina Department of Transportation or a public utility company to relocate automatic license plate reader system equipment that is on a right-of-way owned or maintained by DOT in the event DOT or a public utility needs immediate access to the right-of-way or utility facilities. The bill requires “prompt notice” to be provided to the law enforcement agency that owns or controls the automatic license plate reader system equipment but does not specify that notice must occur prior to relocating the automatic license plate reader system equipment.

Newly enacted G.S. 136-27.3A also provides that DOT and public utilities are protected from liability for damage to any relocated license plate reader system equipment so long as there is no gross negligence or willful misconduct in the relocating of this equipment.

The bill also enacts new G.S. 20-183.32A to require, no later than March 1 of each year, any law enforcement agency that has placed an automatic license plate reader system on a right-of-way owned or maintained by DOT to submit a report to the Joint Legislative Oversight Committee on Justice and Public Safety that contains: (1) the written policy governing the use of the automatic license plate reader system; (2) the number of requests for captured data by each requesting agency; and (3) the amount of data preserved for more than 90 days compared to the amount of data captured on an annual basis.

Note: Our current State law does not authorize the placement of automatic license plate reader system equipment on a right-of-way owned or maintained by DOT and we do not anticipate that DOT will be allowing the placement of such equipment by a law enforcement agency or any other entity on a DOT right-of-way.

Effective: July 1, 2021

Finally, while [Senate Bill 105](#) makes hundreds of appropriations that benefit both State and local government and the citizens of this State, the following appropriations that enhance public safety are of particular interest to the criminal justice community:

1. The bill appropriates to the North Carolina State Crime Laboratory \$500,000 in recurring funds each year for the 2021-2022 fiscal year and the 2022-2023 fiscal year to provide for State Crime Lab testing materials and related costs for newly submitted sexual assault evidence collection kits (SAECKs).

2. The bill appropriates to the North Carolina State Crime Laboratory \$6 million in nonrecurring funds for the 2021-2022 fiscal year and \$3 million in nonrecurring funds for the 2022-2023 fiscal year to provide funding to outsource testing of untested sexual assault evidence collection kits (SAECKs).
3. The bill appropriates to the North Carolina State Crime Laboratory \$403,000 in recurring funds for the 2021-2022 fiscal year and \$852,000 in recurring funds for the 2022-2023 fiscal year to fund additional scientist positions and provide operational support.
4. The bill appropriates to the North Carolina State Crime Laboratory \$1 million in nonrecurring funds for the 2021-2022 fiscal year to provide for the outsourcing of evidence submissions and training requirements. This will help alleviate the State Crime Laboratory backlog and further promote the timely response to evidentiary demands from across the State.
5. The bill appropriates to the North Carolina Criminal Justice Education and Training Standards Commission (CJ Standards Commission) \$2.2 million in recurring funds each year for the 2021-2022 fiscal year and the 2022-2023 fiscal year to shift the CJ Standards Commission from receipt funded to budget-funded.
6. The bill appropriates to the North Carolina Criminal Justice Education and Training Standards Division \$142,000 in recurring funds for the 2021-2022 fiscal year and \$285,000 in recurring funds for the 2022-2023 fiscal year to fund 1 investigator, 1 program coordinator for the Criminal Justice Fellows Program, and 2 administrative specialists.
7. The bill appropriates to the North Carolina Criminal Justice Education and Training Standards Commission \$332,000 in recurring funds and \$30,000 in nonrecurring funds for the 2021-2022 fiscal year and \$664,000 in recurring funds and \$30,000 in nonrecurring funds for the 2022-2023 fiscal year to provide funding for the Criminal Justice Fellows Program, which provides funding to recruit qualified in-state high school seniors or unemployed/underemployed graduates and provide them with forgivable community college loans to pursue a career in law enforcement in a county of the State with a population of less than 200,000.
8. The bill appropriates to the North Carolina Sheriffs' Education and Training Standards Division \$120,000 in recurring funds for the 2021-2022 fiscal year and \$240,000 in recurring funds for the 2022-2023 fiscal year to fund 2 general support positions and 1 telecommunicator certification coordinator.
9. The bill appropriates to the North Carolina Justice Academy \$115,000 in recurring funds for the 2021-2022 fiscal year and \$231,000 in recurring funds for the 2022-2023 fiscal year to fund 2 instructor positions and 1 support staff position.
10. The bill appropriates to the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards

Commission \$71,000 in nonrecurring funds for the 2021-2022 fiscal year to develop and maintain a database of use-of-force incidents involving law enforcement officers.

11. The bill appropriates to the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission \$71,000 in nonrecurring funds for the 2021-2022 fiscal year to develop and maintain a database to track disciplinary actions and decertification actions involving law enforcement officers.
12. The bill appropriates to the State Fiscal Recovery Fund \$38 million in nonrecurring funds for the 2021-2022 fiscal year to provide a one-time, \$1,000 bonus for permanent full-time State employees and local education employees, in addition to a one-time, \$500 premium pay bonus to State law enforcement officers who are permanent full-time State law enforcement officers as of January 1, 2022.
13. The bill appropriates to the North Carolina Department of Public Safety \$19 million in nonrecurring funds for the 2021-2022 fiscal year to provide funding to update obsolete Voice Interoperability Plan for Emergency Responders (VIPER) equipment.
14. The bill appropriates to the North Carolina Department of Public Safety \$3 million in recurring funds each year for the 2021-2022 fiscal year and the 2022-2023 fiscal year to provide funding for a GPS-related electronic monitoring program for pre-trial domestic violence defendants.
15. The bill appropriates to the Gaston County Sheriff's Office \$500,000 in nonrecurring funds for the 2021-2022 fiscal year for new SWAT equipment.
16. The bill appropriates to the Craven County Sheriff's Office \$250,000 in nonrecurring funds for the 2021-2022 fiscal year for the purchase of emergency response equipment and VIPER radios.
17. The bill appropriates to the Gates County Sheriff's Office \$20,000 in nonrecurring funds for the 2021-2022 fiscal year to support the purchase and operation of officer body-worn cameras.
18. The bill appropriates to the Alamance County Sheriff's Office \$500,000 in nonrecurring funds for the 2021-2022 fiscal year to support the Stepping Up initiative, which is aimed at developing a diversion center where nonviolent suspects with mental illness can receive necessary services.
19. The bill appropriates to the North Carolina Department of Public Safety, Division of Alcohol Law Enforcement, \$459,000 in nonrecurring funds for the 2021-2022 fiscal year to equip agents to respond to excessive civil disturbances and related events and to purchase computers and other needed equipment.



20. The bill appropriates to the State Capitol Police \$394,000 in nonrecurring funds for the 2021-2022 fiscal year to equip officers to respond to excessive civil disturbances and related events.
21. The bill appropriates to the State Capitol Police \$725,000 in recurring funds and \$279,000 in nonrecurring funds for the 2021-2022 fiscal year and \$1.4 million in recurring funds for the 2022-2023 fiscal year to provide funding for sworn officers and their equipment.
22. The bill appropriates to the North Carolina State Bureau of Investigation \$200,000 in nonrecurring funds for the 2021-2022 fiscal year to provide funding to participate in the Federal Bureau of Investigation's RapBack criminal database information program.
23. The bill appropriates to the North Carolina State Bureau of Investigation \$250,000 in recurring funds each year for the 2021-2022 fiscal year and the 2022-2023 fiscal year to provide funding for the implementation of electronic concealed handgun permits.
24. The bill budgets to the North Carolina Department of Public Safety \$1 million in nonrecurring receipts for the 2021-2022 fiscal year and appropriates \$2.5 million in non-recurring funds for the 2022-2023 fiscal year to provide funding for a pilot project for sheriffs participating in the Statewide Misdemeanant Confinement Fund to form litter crews to pick up trash on State roads.
25. The bill appropriates to the North Carolina Department of Public Safety \$220,000 in recurring funds and \$4.4 million in nonrecurring funds for the 2021-2022 fiscal year and \$220,000 in recurring funds for the 2022-2023 fiscal year to provide funding to implement mobile panic alarm capability in all public K-12 and charter schools.
26. The bill appropriates to the Craven County Sheriff's Office \$200,000 in nonrecurring receipts from the State Emergency Response and Disaster Relief Fund (SERDRF) for the 2021-2022 fiscal year to purchase emergency response equipment.
27. The following sums shall be allocated for the following projects: (1) \$1,673,500 for the 2021-2022 fiscal year to the North Carolina Department of Justice for repairs and renovations at the Justice Academy campus in Edneyville; and (2) \$2,836,952 for the 2021-2022 fiscal year to the North Carolina Department of Justice for repairs and renovations at the Justice Academy campus in Salemburg.
28. The bill appropriates to the North Carolina Department of Public Safety \$4.1 million in nonrecurring funds for the 2021-2022 fiscal year to provide funding to purchase and renovate a building for the East Montgomery - Safer Schools Training Academy.
29. The bill appropriates to the North Carolina Department of Public Safety \$1.8 million in nonrecurring funds for the 2021-2022 fiscal year to provide funding to purchase the Cochran land and to construct a live fire training facility at the Samarcand Training Academy.

30. The bill appropriates to the North Carolina Department of Public Safety \$8.1 million in nonrecurring funds for the 2021-2022 fiscal year and \$20.4 million in nonrecurring funds for the 2022-2023 fiscal year for a new headquarters and building renovations for the North Carolina State Bureau of Investigation.
31. The bill appropriates \$100,000 in nonrecurring funds for the 2021-2022 fiscal year to provide public safety grant funds in the amount of \$50,000 to the Gaston County Sheriff's Office and \$50,000 to the Gaston County Police Department.
32. The bill appropriates \$275,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to the North Carolina Troopers Association to support the North Carolina State Highway Patrol Caisson Unit.
33. The bill appropriates \$125,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to the North Carolina Troopers Association to support K-9 search and recovery efforts.
34. The bill appropriates to the North Carolina Department of Public Safety \$9 million in nonrecurring funds and \$1 million in recurring funds for the 2021-2022 fiscal year and \$1 million in recurring funds for the 2022-2023 fiscal year for the purchase and operating expenses of a new helicopter.
35. The bill appropriates to the North Carolina Department of Public Safety \$18 million in nonrecurring funds for the 2021-2022 fiscal year to fund equipment for State Troopers to respond to excessive civil disturbances and related events, including the purchase of 2 personnel carriers.
36. The bill appropriates to the North Carolina Department of Public Safety \$2 million in nonrecurring funds for the 2021-2022 fiscal year to provide funding to the North Carolina State Bureau of Investigation for equipment and information technology needs, including 3D crime scene mapping, radios, advanced drone technology, tactical gear and operating expenses.
37. The bill appropriates to the North Carolina Department of Public Safety \$250,000 in recurring funds for the 2021-2022 fiscal year and \$1 million in recurring funds for the 2022-2023 fiscal year for 8 new sworn law enforcement positions at the North Carolina State Bureau of Investigation that will increase the efforts of the SBI in combating human trafficking.
38. The bill appropriates to The University of North Carolina at Chapel Hill \$100,000 in nonrecurring funds for the 2021-2022 fiscal year to expand an existing contract for asset tracking and management equipment and software to include campus police at The University of North Carolina at Chapel Hill.

39. The bill appropriates to the Town of Mount Holly \$800,000 in nonrecurring funds for the 2021-2022 fiscal year for the construction of a Mount Holly Police Department memorial plaza.
40. The bill appropriates to the Middlesex Police Department \$15,000 in nonrecurring funds for the 2021-2022 fiscal year to renovate the Middlesex Police Department police station.
41. The bill appropriates \$350,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to the Caldwell County Sheriff's Office for a Bearcat tactical response unit.
42. The bill appropriates \$450,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Cleveland County for a new mobile command unit for the Cleveland County Sheriff's Office.
43. The bill appropriates \$10 million in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Columbus County for a new sheriff's office.
44. The bill appropriates \$21 million in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Duplin County for the expansion of the Duplin County Sheriff's Office detention facility.
45. The bill appropriates \$250,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Iredell County for the purchase of a new boat for the Iredell County Sheriff's Office.
46. The bill appropriates \$200,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to the Lincoln County Sheriff's Office for equipment.
47. The bill appropriates \$1 million in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to the Sampson County Sheriff's Office for a storage facility.
48. The bill appropriates \$500,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Wayne County for a new mobile command unit for the Wayne County Sheriff's Office.
49. The bill appropriates \$5 million in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Yancey County for the purchase of land and construction of a new Yancey County Sheriff's Office and dispatch center.
50. The bill appropriates \$459,000 in nonrecurring funds for the 2021-2022 fiscal year to the North Carolina Department of Public Safety to provide funding to the Division of Alcohol Law Enforcement for equipment needed to respond to excessive civil disturbances and related events and to purchase computers and other needed equipment.

51. The bill appropriates \$450,000 in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Cleveland Community College for a new law enforcement training center.
52. The bill appropriates \$5 million in nonrecurring funds for the 2021-2022 fiscal year to provide a grant to Mitchell County for a new law enforcement center.
53. The bill appropriates \$300,000 in recurring funds for each year of the 2021-2023 fiscal biennium to the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, for transfer to ALE to conduct tobacco compliance checks throughout the State to enforce the State's youth tobacco access law.
54. The bill requires, effective January 1, 2022, the North Carolina Department of Public Safety (DPS) to relocate the ALE headquarters and regional offices with funds appropriated to DPS in this year's budget.

[SENATE BILL 172](#), [Additional COVID-19 Response & Relief](#), appropriates \$2.6 million in anticipated federal grant funds to be used by the North Carolina Department of Public Safety, Division of Emergency Management, for the administration of emergency management performance grants.

The Division of Emergency Management indicated that applications for grant funds could be submitted starting in October 2021 for grants anticipated to be awarded in 2022.

Therefore, sheriffs and other law enforcement agencies seeking to apply for these anticipated federal grant funds should contact their local emergency management coordinator as soon as possible to inquire about the grant application process.

Effective: May 24, 2021

[SENATE BILL 183](#), [Ignition Interlock/Various Changes](#), amends G.S. 20-179.3 to remove, effective December 1, 2021, the 45-day waiting period following final conviction before the effective start date of limited driving privileges issued to individuals convicted of an impaired driving offense with an alcohol concentration of 0.15 or higher at the time of the offense.

The bill makes various other changes to the laws governing limiting driving privileges and ignition interlock devices. Of interest to the criminal justice community, the bill:

1. Amends G.S. 20-179.3 to require a judge, in issuing a limited driving privilege to a person whose license was revoked for a conviction of driving while impaired (DWI) and whose BAC at the time of the offense was 0.15 or more, to include a requirement that the vehicle(s) designated by the person be equipped with an ignition interlock system set to prohibit driving with an alcohol concentration of greater than 0.02.

Currently, the ignition interlock system must be set to prohibit driving if the alcohol

concentration is greater than 0.00 for this category of limited driving privilege. When this law takes effect, individuals with this limited driving privilege could drive after consuming alcohol.

2. Amends G.S. 20-179.3 to provide that the driving purpose and operational hour restrictions contained in the statute for limited driving privileges will not apply where an individual has been issued a limited driving privilege requiring the individual's designated motor vehicle(s) to be equipped with an ignition interlock device and the individual is operating a designated motor vehicle equipped with a functioning ignition interlock system.

Currently, individuals convicted of an impaired driving offense with an alcohol concentration of 0.15 or higher at the time of the offense who are issued limited driving privileges may only drive for various essential purposes, such as to and from work, and they are prohibited from driving outside certain hours except when related to emergency medical care.

3. Amends G.S. 20-17.8 to require the North Carolina Division of Motor Vehicles (DMV), when restoring the license of a person whose license was revoked for driving while impaired and who (1) had an alcohol concentration of 0.15 or more at the time of the offense, (2) had been convicted of another offense involving impaired driving within seven years preceding the offense prompting revocation, or (3) was sentenced as an Aggravated Level One offender, to indicate on the license that the person may not drive with an alcohol concentration of 0.02 or greater.

Currently, the restoration requirement allows for different alcohol concentrations, ranging from 0.00 to 0.04 depending upon what condition above accompanied the person's impaired driving conviction.

4. Amends G.S. 20-17.8 to allow a person whose license is being restored under the statute to designate a registered vehicle or vehicles owned by that person, that the person operates or intends to operate, to be equipped with a functioning ignition interlock system.

Currently, a person whose license is being restored under this section is required to have all vehicles registered to the person equipped with a functioning ignition interlock system, regardless of whether they operate or intend to operate those vehicles.

Amended G.S. 20-17.8 also requires the Commissioner of Motor Vehicles to cancel the driver's license of any person whose license was restored under the section if they operate a vehicle that has not been designated and equipped with a functioning ignition interlock system.

5. Amends G.S. 20-19 to require, for any restoration of a drivers license for a person convicted of driving while impaired in a commercial motor vehicle, habitual impaired driving, felony death by vehicle, manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or violation of certain license restrictions, that the DMV place a restriction on the person's license prohibiting them from

operating a vehicle with an alcohol concentration of greater than 0.02 at any relevant time after driving.

Currently, the alcohol concentration limit for this restriction is 0.00, and driving while less than 21 years old after consuming alcohol or drugs is included in the list of applicable convictions.

6. Amends G.S. 20-19 to enact a separate restriction for licenses restored after revocation for conviction of driving while less than 21 years old after consuming alcohol or drugs or for conviction of an out-of-state or federal impaired driving offense which, if committed in this State, would result in a conviction for driving while less than 21 years old after consuming alcohol or drugs. Persons with these restored licenses are prohibited from operating a vehicle with an alcohol concentration of greater than 0.00 at any relevant time after driving.
7. Amends G.S. 20-19 to enact a separate restriction for restoration of licenses under G.S. 20-17.8, which requires an ignition interlock system. Persons with these restored licenses are prohibited from operating a vehicle with an alcohol concentration of 0.02 or more at any relevant time after driving.
8. Amends G.S. 20-19 to require a person seeking restoration of a license to agree to submit to a chemical analysis at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or controlled substance previously consumed.
9. Enacts G.S. 20-179.5 to specify that the cost of installing and monitoring an ignition interlock system required by the DMV or a court is the responsibility of the person required to install the ignition interlock system. Newly enacted G.S. 20-179.5 allows a person ordered to install an ignition interlock system but who is unable to afford the cost to apply to an authorized vendor for a waiver of a portion of the costs of the system. A vendor, upon receipt of an affidavit and proper supporting documentation, is required to install and remove the ignition interlock system at no cost and provide a 50% discount on the monthly service rate.

Currently, a person may only apply for a financial hardship waiver from the DMV if the vehicle in which an ignition interlock system is required to be installed is relied upon by another member of the person's family for transportation and is not in the possession of the person subject to the installation requirement.

Effective: June 1, 2022 and applies to limited driving privileges issued and driving licenses restored on or after that date.

The bill also makes various technical and conforming changes to [Senate Bill 300, Criminal Justice Reform](#), summarized below in this Final Legislative Report. Of interest to the criminal justice community, the bill:

1. Substitutes the correct term, “office” in various statutes where the Office of Sheriff is incorrectly described as a “department.” The Office of Sheriff is not and has never been a department of local government.

Effective: November 18, 2021

2. Amends various statutes to allow a court making the determination of whether to enroll an offender in satellite-based monitoring (SBM) to consider other relevant evidence in addition to the risk assessment that must be conducted by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice (DACJJ).

Effective: December 1, 2021 and applies to satellite-based monitoring determinations made on or after that date.

3. Amends G.S. 14-208.40A to allow DACJJ to use a prior risk assessment performed on an offender for use in determining whether that offender should be enrolled in SBM, provided the prior risk assessment was performed within six (6) months of the date of the hearing to determine SBM enrollment.

Effective: December 1, 2021 and applies to satellite-based monitoring determinations made on or after that date.

4. Amends G.S. 14-208.43 to allow the courts to consider petitions to terminate SBM filed by offenders who were enrolled in the program because they were required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes and because they committed an offense involving the physical, mental, or sexual abuse of a minor.

Effective: December 1, 2021 and applies to any individual ordered to enroll in satellite-based monitoring on or after that date.

5. Amends G.S. 14-208.46 to prohibit a court from considering a petition to terminate SBM filed by an offender enrolled in the program prior to December 1, 2021 until the offender has been enrolled in SBM for 10 years.

Effective: December 1, 2021 and applies to any individual ordered to enroll in satellite-based monitoring prior to that date.

6. Amends G.S. 15A-601 to allow a first appearance for a felony or misdemeanor to be conducted within 96 hours after the defendant has been taken into custody if the courthouse has been closed for transactions for a period longer than 72 hours and no regular session of district court has yet been held in the county.

Effective: December 1, 2021 and applies to criminal process served on or after that date.

7. Amends G.S. 15A-601 to no longer allow a magistrate to conduct a first appearance.

Effective: December 1, 2021 and applies to criminal process served on or after that date.

[SENATE BILL 196](#), GSC Sale of Property Amend/Delay Prosec Split, amends G.S. 1-339.54 to update the mailing method of service required of sheriffs in sending a notice of execution sale for real property. If the judgment debtor is located outside of the county, the sheriff may send notice of sale to the judgment debtor's last known address via certified mail, return receipt requested, or by registered mail.

Previously, the sheriff was authorized to serve the out of county judgment debtor only by registered mail and by serving the judgment debtor's agent if there was a person within the county known to the sheriff to be the judgment debtor's agent who had custody or management of, or who exercised control over, any property in the county belonging to the judgment debtor.

Effective: October 1, 2021

[SENATE BILL 207](#), Various Raise the Age Changes/JJAC Recs., makes various changes to the laws regarding undisciplined and delinquent juveniles. Of interest to the criminal justice community, the bill:

1. Amends G.S. 7B-1501 to change the definitions of "Delinquent Juvenile" and "Undisciplined Juvenile" and to create the new definition of "Vulnerable Juvenile."

A juvenile less than 10 years of age will not be considered an "Undisciplined Juvenile."

A juvenile less than 10 years of age will not be considered a "Delinquent Juvenile" unless they are at least 8 years of age and have been previously adjudicated delinquent or have committed a Class A, B1, B2, C, D, E, F, or G felony under State law.

A juvenile less than 10 years of age but at least 6 years of age who is not defined as a "Delinquent Juvenile" under the previous exceptions but who has committed a crime or infraction under State law or under an ordinance of local government, including a violation of the motor vehicle laws, will now be defined as a "Vulnerable Juvenile."

2. Amends G.S. 7B-1701 to require a juvenile court counselor in receipt of a complaint against a juvenile less than 10 years of age to determine if the juvenile is within the jurisdiction of juvenile court as a "Delinquent Juvenile" or if the juvenile is a "Vulnerable Juvenile." If the juvenile is determined to be a vulnerable juvenile, the juvenile court counselor must handle the complaint as a "Juvenile Consultation," defined in amended G.S. 7B-1501 as the "provision of services to a vulnerable juvenile and to the parent, guardian, or custodian of a vulnerable juvenile . . ."
3. Enacts new G.S. 7B-1706.1, which provides that a "Juvenile Consultation" consists of providing case management services, including screenings, assessments, community resources, and programming, to the juvenile and that juvenile's parent, guardian, or



custodian for an initial term of six months, with the option to extend those services for up to three additional months at the approval of the chief court counselor.

4. Enacts new Article 27A of Chapter 7B of the General Statutes giving the State authority over the parent, guardian, or custodian of a juvenile designated as a “Vulnerable Juvenile,” requiring them to attend all scheduled meetings with the juvenile court counselor and requiring them to attend parental responsibility classes if directed by the juvenile court counselor. In addition, it allows the juvenile court counselor to work with the parent, guardian, or custodian to obtain any needed medical, surgical, or psychiatric treatment for the juvenile.

This new article also requires the juvenile court counselor to work collaboratively with the parent, guardian, or custodian of the juvenile, the Department of Social Services, and the local management entity or managed care organization (LME/MCO), collectively defined as the “Juvenile and Family Team.”

The juvenile court counselor is required to report to the Department of Social Services if the parent, guardian, or custodian of the juvenile refuses to follow the recommendations of the Juvenile and Family Team and this refusal puts the juvenile at risk of abuse, neglect, or dependency.

5. Amends G.S. 7B-3100 to specify that any information revealing the identity of a juvenile receiving juvenile consultation services is prohibited from being disclosed except pursuant to certain limited exceptions (such as disclosure to local law enforcement agencies, local school administrative units and the district attorney’s office).
6. Amends G.S. 7B-2204 to clarify that juveniles who are found guilty or pleading guilty or no contest in superior court and receiving an active sentence may be held in holdover facilities or detention facilities approved by the Juvenile Justice Section pending their transfer to the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.

This clarification does not change the law which prohibits the housing of a person under the age of 18 in a local jail unless the sheriff consents and the local jail is approved by the Division of Adult Correction and Juvenile Justice for the housing of juveniles.

7. Amends G.S. 7B-2200.5 to give the prosecutor discretion to decline to prosecute in superior court an offense committed by a juvenile 16 years of age or older that would be a Class D, E, F, or G felony if committed by an adult, in which case jurisdiction over the juvenile shall remain with juvenile court.

Previously, a joint motion filed by the prosecutor and the juvenile’s attorney was required before a judge could remand a juvenile case back to district court.

Effective: December 1, 2021 and applies to offenses committed on or after that date.

[SENATE BILL 241](#), Modified Utility Vehicle Def/Use of Funds, amends G.S. 20-4.01(27)(g2) to change the definition of a “modified utility vehicle” to include any motor vehicle upfitted (and not just manufactured) for off-road use by a licensed manufacturer, dealer, or person or business otherwise engaged in vehicle manufacturing or modification.

The bill also eliminates the minimum engine displacement needed and reduces the minimum length and height needed to qualify as a “modified utility vehicle.” Previously, only certain motor vehicles manufactured for off-road use met the definition of modified utility vehicle.

The bill also amends G.S. 20-121.1 to prohibit the operation of modified utility vehicles on any street or highway having four or more travel lanes where the posted speed limit is greater than 35 miles per hour and to eliminate the requirement that modified utility vehicles be equipped with windshields and windshield wipers. However, any person operating or riding in a modified utility vehicle without a windshield and windshield wipers must wear a safety helmet with a retention strap properly secured that complies with Federal Motor Vehicle Safety Standard (FMVSS) 218.

A violation of G.S. 20-121.1 is an infraction.

Effective: October 1, 2021

[SENATE BILL 255](#), 2021 AOC Legislative Changes, amends G.S. 162-18 to now require sheriffs to pay money collected on an execution immediately into the clerk of court’s office of the court issuing the execution. Previously, a sheriff was permitted to pay the money collected on an execution either to the plaintiff directly or to the clerk of court if there was no contest over the application of the money.

The bill also amends G.S. 1-310 to require a sheriff to notate separately on a return of execution for a judgment requiring payment of money: (1) any amount(s) collected without an execution sale and the date(s) of collection, and (2) the date of levy and a description of property levied and sold through execution sale.

The bill also enacts G.S. 7A-49.6 to allow court proceedings of all types to be conducted through videoconferencing applications approved by the Administrative Office of the Courts (AOC), provided the applications supply audio and video transmission in which the parties, the presiding official, and the other participants can see and hear each other and in which each party can communicate fully and confidentially with their attorney, if represented.

Newly enacted G.S. 7A-49.6 allows a party to object to holding a civil proceeding via audio and video transmission, permits a court to allow remote testimony in a civil proceeding involving a jury only if good cause is shown for doing so, and prohibits the use of remote testimony in any criminal or juvenile proceeding where the right to confront witnesses is implicated, unless the court obtains a knowing, intelligent, and voluntary waiver of the defendant or juvenile’s confrontation rights.

Effective: June 18, 2021

[SENATE BILL 300](#), Criminal Justice Reform, enacts various changes to State law that impact the criminal justice system as follows:

1. Enacts G.S. 17E-14 and G.S. 17C-14 to require both the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission (the Commissions) to develop and maintain a statewide database accessible to the public on each Commission's website that contains all revocations and suspensions of law enforcement officer certifications by the applicable Commission.

Effective: October 1, 2021

2. Enacts G.S. 143B-972.1 to require the North Carolina State Bureau of Investigation (SBI) to provide the Commissions with information from the State and National Repositories of Criminal Histories concerning the criminal history of anyone applying to a position that requires certification with either Commission, or who is already certified as a "criminal justice officer" or "justice officer."

"Criminal justice officers" are the administrative and subordinate personnel of all departments and agencies comprising the criminal justice agencies who are sworn law-enforcement officers, both State and local, with the power of arrest and includes State correctional officers; State probation/parole officers; State probation/parole officers-surveillance; officers, supervisory and administrative personnel of local confinement facilities; State juvenile justice officers; chief court counselors; and juvenile court counselors.

"Justice officers" are: (1) persons who have taken the oath of office prescribed by Chapter 11 of the General Statutes as a peace officer in the office of the sheriff and includes deputy sheriffs, reserve deputy sheriffs and special deputy sheriffs, (2) persons who have been appointed as detention officers by the sheriff, (3) persons who are either administrators or other custodial personnel of district confinement facilities, (4) persons who are under the direct supervision and control of the sheriff serving as telecommunicators, and (5) persons who are presented to the North Carolina Sheriffs' Education and Training Standards Commission by an employing entity other than the sheriff for certification as a telecommunicator.

The bill further requires the agency employing any certified criminal justice officer or justice officer to provide the applicant's fingerprints and other requested identifying information to the SBI.

Newly enacted G.S. 143B-972.1 requires the SBI to search the State's criminal history record file, enroll the fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS), and forward a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. In addition, the bill requires the SBI to enroll each person whose fingerprints it receives into the FBI's Record of Arrest and Prosecution Background ("Rap Back") Service. Rap Back will then compare those

fingerprints with arrest records nationwide on a regular basis and report back to the SBI on arrest records located for an individual. The SBI is required to notify the certifying Commission of any subsequent arrest of an individual enrolled in the service.

Finally, if the SBI receives notification by either Commission that the person whose fingerprints have been stored in SAFIS has withdrawn the application or separated from employment, and an Affidavit of Separation has been filed with the appropriate Commission, within 15 days the SBI is required to remove the fingerprints from SAFIS and forward a request to the FBI to remove the fingerprints from its system and Rap Back Service.

All personnel certified by either Commission must have their fingerprints electronically submitted to the SBI by June 30, 2023.

Effective: January 1, 2023

3. Enacts G.S. 17E-15 and G.S. 17C-15 to require the North Carolina Sheriffs' Standards Division and the North Carolina Criminal Justice Standards Division to each develop and maintain a statewide database for law enforcement agencies that tracks all critical incident data of law enforcement officers in the State.

Newly enacted G.S. 17E-2 and G.S. 17C-2 define "critical incident" as an incident involving any use of force by a law enforcement officer resulting in death or serious bodily injury to a person.

G.S. 17E-15 and G.S. 17C-15 further require all North Carolina law enforcement agencies in the State that employ personnel certified by the Commissions to provide any information requested by either Standards Division to maintain the statewide database. Information provided to either Division for the database that is confidential under State or federal law will remain confidential and will not be subject to disclosure without a court order.

Finally, a law enforcement officer that is reported to either Division as having been involved in a critical incident who disputes being involved in the critical incident has the right to request an administrative hearing prior to being placed in the database.

Effective: October 1, 2021 and applies to critical incidents on or after that date.

4. Enacts G.S. 17E-16 and G.S. 17C-16 to require any person certified by the Commissions, or any person who has received a conditional offer of employment, to report to their respective Standards Divisions if they have been notified that they may not be called to testify at trial because of bias, interest or lack of credibility. This notification is commonly known as a "*Giglio* notification."

The bill requires three different parties to notify the Standards Division of the applicable Commission. First, the bill requires the person so notified to report this in writing to their respective Standards Division and their agency head (such as the sheriff or chief of police)

within 30 days of receiving the *Giglio* notification. This only applies to *Giglio* notifications that were made as follows: (1) in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head; or (2) were made in open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

Second, newly enacted G.S. 17E-16 and G.S. 17C-16 also require the official who issued the *Giglio* notification (such as a judge) to report the notification and provide a copy of the written document to the Standards Division overseeing the person's certification, or prospective certification, within 30 days of issuing the *Giglio* notification.

Third, the bill requires the agency head who was notified of the *Giglio* notification to also report to the standards Division in writing within 30 days of receiving the report that the employee received a *Giglio* notification.

In the event a person's certification is transferred to another agency, the bill requires the applicable Standards Division to notify in writing both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person is subject to a *Giglio* notification as described above. In the event the new agency receiving this notification is a State agency, the applicable Standards Division is required to notify the elected district attorney in every prosecutorial district of the State.

The bill allows a person who received a *Giglio* notification requiring reporting to their Commission to apply for a hearing before a superior court judge to determine whether the person received a notification that requires reporting. The bill does not specify when the request for a hearing must be filed in superior court. The hearing is to be limited to reviewing the following: (1) whether the person is certified by the applicable Commission or has received a conditional offer of employment; (2) whether the person has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order; and (3) whether the notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility.

Finally, the bill requires the Commissions to report annually to the Joint Legislative Oversight Committee on Justice and Public Safety, no later than March 1, regarding the number of *Giglio* notifications that were received during the previous calendar year. The bill also requires the report to include whether action was taken against the person's certification (such as through the entry of a final agency decision by either Commission following an administrative hearing). The report will not include the name of any person receiving a *Giglio* notification or any other identifying information of that person.

Previously, law enforcement officers who received *Giglio* notifications were not required to report the notification to their Standards Division, and there was no formal procedure (*i.e.*, due process) in existence for a law enforcement officer to challenge receipt of a *Giglio* notification in any way.

Effective: October 1, 2021 and applies to notifications received prior to, on, or after that date by those required to report pursuant to the bill.

5. Requires the Commissions to jointly develop uniform, statewide minimum standards for law enforcement officers and adopt these standards as permanent rules by December 31, 2022. Each Commission is required to report on these standards to the Joint Legislative Oversight Committee on Justice and Public Safety no later than December 31, 2021. Currently, each Commission has its own set of minimum standards.
6. Amends G.S. 122C-251 to authorize a clerk, magistrate, or district court judge to allow a respondent's health care provider, family member or an immediate friend to transport the respondent for involuntary commitment, so long as this does not pose a substantial danger to the public. Previously, only a family member or an immediate friend of the respondent could be authorized to transfer the respondent in this situation.

Effective: October 1, 2021 and applies to custody orders issued on or after this date.

7. Amends G.S. 17E-4(a) and G.S. 17C-6(a) to require the Commissions to: (1) establish minimum educational and training standards for entry level employment to develop knowledge and increase awareness of effective mental health and wellness strategies for law enforcement officers; and (2) establish minimum in-service training standards for effective mental health and wellness strategies for law enforcement officers consisting of a minimum of two hours of training every three years.

The bill also amends G.S. 17E-7(c) and G.S. 17C-10(c) to require the Commissions to mandate the administration of psychological screening examinations to law enforcement officers. The psychological screening examination is to be conducted face-to-face, in-person by a licensed psychologist and the bill also requires the psychological screening examination to occur prior to the initial certification of the law enforcement officer or before the law enforcement officer is allowed to perform any act requiring certification.

If a face-to-face, in-person examination is not practicable, the face-to-face evaluation can be virtual so long as both the audio and video allow for a professional clinical evaluation in a clinical environment.

Effective: January 1, 2022

8. Requires the Commissions to jointly study the benefits of requiring physical fitness testing throughout a law enforcement officer's career and whether that testing, if required, should be incrementally adjusted for age. The Commissions are required to report their findings to the Joint Legislative Oversight Committee on Justice and Public Safety no later than

March 31, 2022. Currently, law enforcement officers are not required to pass a physical fitness test to maintain their certification.

9. Enacts G.S. 17A-10 requiring every agency in the State that employs personnel certified by either of the Commissions to each develop and implement an early warning system to document and track law enforcement officer actions and behaviors so the relevant agency can intervene to correct the officer's performance. The early warning system is required to include at a minimum information on: (1) instances of the discharge of a firearm; (2) instances of use of force; (3) vehicle collisions; and (4) citizen complaints. For purposes of this provision, "law enforcement officer" means any sworn law enforcement officers with the power of arrest, both State and local. Information gathered pursuant to this provision that is confidential under State or federal law will remain confidential and will not be subject to disclosure without a court order. Previously, there was no statewide requirement for law enforcement agencies to implement an early warning system, but some agencies opted to do so.

Effective: December 1, 2021 and applies to actions and behaviors on or after this date.

10. Requires the Commissions to jointly develop a "best practices guide" to help law enforcement agencies recruit and retain a diverse workforce. The Commissions are required to report their findings to the Joint Legislative Oversight Committee on Justice and Public Safety no later than April 1, 2022.
11. Amends G.S. 143B-919 to authorize the Governor, sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons to request and require that the SBI conduct an investigation and prepare evidence related to an incident involving: (1) a sworn law enforcement officer with the power to arrest that uses force against an individual in the performance of the officer's duties that results in death of the individual; or (2) an individual in the custody of the Department of Public Safety, a State prison, county jail, or a local confinement facility who dies, regardless of the physical location of the individual.

Currently, under a separate statute, the SBI is authorized, but not required, to provide assistance to sheriffs, police officers, district attorneys, and judges upon request. The SBI is also required to provide assistance to the Department of Public Safety, upon request, in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor. Additionally, district attorneys are currently required by statute to request an SBI investigation of any death of a private citizen that resulted from the use of a firearm by a law enforcement officer in the line of duty when requested by the citizen's spouse or next of kin.

Effective: October 1, 2021

12. Amends G.S. 17E-4(a) and G.S. 17C-6(a) to require the Commissions to develop mandatory in-service training standards to cover the following additional topics: (1) ethics; (2) mental health for criminal justice officers; (3) community policing; (4) minority sensitivity; (5) use of force; and (6) the duty to intervene and to report. Currently, the only topics required to be covered in mandatory in-service training are domestic violence and juvenile justice.

Effective: January 1, 2022

13. Amends G.S. 150B-1 to exempt the Commissions from the rules review process contained in Article 2A of the Administrative Procedure Act when those bodies are establishing minimum standards for in-service training. This will allow the Commissions to be more responsive to the training needs of law enforcement officers.

Effective: September 2, 2021

14. Amends G.S. 153A-123 and G.S. 160A-175 to prohibit a county or municipality from imposing a criminal penalty for violation of certain ordinances related to planning and regulation of development, licensing of businesses and trades, outdoor advertisements, solar collectors, cisterns and rain barrels, taxis, trees, setback lines, curb cut regulations, and stream-clearing programs. Previously, there was no limitation on what categories of ordinance violations could be criminalized.

Amended G.S. 153A-123 and G.S. 160A-175 also provide that violation of a city or county ordinance in a category not listed above is a misdemeanor or infraction only if the city or county specifies so in the ordinance. Previously, violation of a city or county ordinance was a misdemeanor or infraction unless the city or county provided otherwise.

Effective: December 1, 2021 and applies to offenses and violations committed on or after that date.

15. Amends G.S. 14-4 to provide that no individual may be found guilty or responsible of a local ordinance violation if, when tried for the violation, they produce proof either that they did not violate the specific ordinance again for 30 days following the initial ordinance violation or that they engaged in a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that may bear on their ability to comply with the ordinance. Previously, the statute did not provide such a defense.

Effective: December 1, 2021 and applies to offenses and violations committed on or after that date.

16. Amends G.S. 15A-601 to require that any person who is in custody and charged with a misdemeanor or felony be brought before a district court judge for a first appearance no later than 72 hours after an individual has been taken into custody or at the first regular session of district court, whichever occurs first.



Previously, first appearances were not required for misdemeanor charges and they could be performed up to 96 hours after an individual has been taken into custody for a felony. The bill also amends G.S. 15A-601 to allow magistrates to perform a first appearance if neither a district court judge nor the clerk of superior court is available, but [Senate Bill 183](#) further amended G.S. 15A-601 to remove the ability of magistrates to perform first appearances.

[Senate Bill 183](#), [Ignition Interlock/Various Changes](#), enacted into law after this bill, further amended G.S. 15A-601 to allow a first appearance for a felony or misdemeanor to be conducted within 96 hours after the defendant has been taken into custody if the courthouse has been closed for transactions for a period longer than 72 hours and no regular session of district court has yet been held in the county.

Effective: December 1, 2021 and applies to criminal process served on or after that date.

17. Amends G.S. 17E-4 and G.S. 17C-6 to require the Commissions to search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) by name for any applicant for certification or lateral transfer to determine if the applicant has any record that would disqualify the applicant for certification.

Effective: October 1, 2021 and applies to applications for certification submitted on or after that date.

18. Amends G.S. 15A-401 to require any law enforcement officer to intervene and prevent the use of excessive force if, that officer, while in the line of duty, observes another law enforcement officer use force against another that the observing officer reasonably believes exceeds the amount of force authorized by the statute and that officer has a reasonable opportunity to safely intervene.

The bill also amends G.S. 15A-401 to require the observing officer to report, within a reasonable period of time after the observation not to exceed 72 hours, the alleged use of excessive force to a superior officer in the observing officer's agency, even if the observing officer did not have an opportunity to intervene. If the head of the law enforcement agency of the observing officer was involved in or present during the alleged use of excessive force, the observing officer must make the report to the highest-ranking law enforcement officer of the observing officer's agency who was not involved in or present during the alleged use of excessive force.

Effective: December 1, 2021 and applies to uses of force occurring on or after that date.

19. Amends various provisions of law related to probation, parole, and sex-offender registration to address the opinion of the Supreme Court of North Carolina in *State v. Grady*, 372 N.C. 509 (2019) that it is a Fourth Amendment violation to impose automatic lifetime satellite-based monitoring (“SBM”) on individuals solely because they meet the definition of a “recidivist” in the statutes. Of interest to the criminal justice community, this section of the bill:

- a. Amends G.S. 14-208.6 to replace the term “recidivist” with the new term “reoffender” in our SBM statutes, defined as a person who has two or more reportable convictions that constitute a felony. “Recidivist” was previously defined in G.S. 14-208.6 as a person who has one prior reportable conviction.

This change effectively limits the imposition of SBM on the basis of multiple offenses to individuals with more reportable convictions and more severe reportable convictions.

- b. Amends G.S. 14-208.40 to limit SBM to only those individuals needing the highest possible level of supervision and monitoring based on the Division of Adult Correction and Juvenile Justice’s risk assessment program.

[Senate Bill 183, Ignition Interlock/Various Changes](#), enacted into law after this bill, further amended G.S. 14-208.40 to allow a court making the determination of whether to enroll an offender in satellite-based monitoring (SBM) to consider other relevant evidence in addition to the risk assessment that must be conducted by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice (DACJJ).

- c. Amends G.S. 14-208.40A and G.S. 14-208.40B to require the court to order that the Division of Adult Correction and Juvenile Justice (DACJJ) perform a risk assessment of an offender within 60 days and to require the court to determine, based on the results of the risk assessment, whether the offender requires the highest possible level of supervision and monitoring, in which case the court must order the offender to enroll in SBM for a period not to exceed 10 years.

[Senate Bill 183, Ignition Interlock/Various Changes](#), enacted into law after this bill, further amended G.S. 14-208.40A to allow DACJJ to use a prior risk assessment performed on an offender for use in determining whether that offender should be enrolled in SBM, provided the prior risk assessment was performed within six (6) months of the date of the hearing to determine SBM enrollment.

- d. Amends G.S. 14-208.43 and G.S. 14-208.46 to allow, five years after the date of their initial enrollment, any offender enrolled in SBM to petition the superior court in the county where the conviction prompting enrollment occurred for termination or modification of the monitoring requirement. The amendments to G.S. 14-208.43 and G.S. 14-208.46 also establish certain procedures for considering the petitions.

[Senate Bill 183, Ignition Interlock/Various Changes](#), enacted into law after this bill, further amended G.S. 14-208.86 to prohibit a court from considering a petition to terminate SBM filed by an offender enrolled in the program prior to December 1, 2021 until the offender has been enrolled in SBM for 10 years.

- e. Amends Chapter 15A to provide that any period of SBM imposed as a condition of probation, post-release supervision or parole must also be based on the offender requiring the highest possible level of supervision and monitoring as determined by the Division of Adult Correction and Juvenile Justice’s risk assessment program.

[Senate Bill 183, Ignition Interlock/Various Changes](#), enacted into law after this bill, further amended various statutes to allow a court making the determination of whether to enroll an offender in satellite-based monitoring (SBM) to consider other relevant evidence in addition to the risk assessment that must be conducted by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice (DACJJ).

Effective: December 1, 2021 and applies to satellite-based monitoring determinations made on or after that date.

- 20. Amends G.S. 14-223 to make it a Class I felony if an individual unlawfully resists, delays, or obstructs a public officer attempting to discharge an official duty and that criminal conduct is the proximate cause of the officer’s serious injury and to make it a Class F felony if that criminal conduct is a proximate cause of the officer’s serious bodily injury. “Serious bodily injury” is defined in the amended statute as “bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.”

Effective: December 1, 2021 and applies to offenses committed on or after that date.

- 21. Amends G.S. 132-1.4A to create a new procedure for the immediate disclosure of dash-cam or body-cam footage depicting a death or serious bodily injury, defined as “bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.”

Under the new procedure, a person may submit a signed and notarized form requesting immediate disclosure to the head of the law enforcement agency having custody of the footage. This form is to be developed by the Administrative Office of the Courts.

The law enforcement agency having custody of the footage must then, within 3 business days of receiving the notarized form, file a petition in the superior court of the county where any portion of the recording was made and deliver a copy of the petition and subject recording to the senior resident superior court judge for that superior court district or their designee. There is no fee for filing the petition.

Within 7 business days of the filing of the petition, the court must conduct an in-camera review of the recording and enter an order, based on the consideration of factors enumerated in the amended statute, instructing that the recording be: (1) immediately disclosed without editing or redaction, (2) immediately disclosed with editing or redaction, (3) disclosed at a later date, with or without editing or redaction, or (4) withheld from the person(s) seeking immediate disclosure.

In any proceeding held pursuant to the new procedure, the head of the custodial law enforcement agency, any law enforcement personnel whose image or voice is in the portion of the recording requested to be disclosed, the head of that person's employing law enforcement agency, the District Attorney, the investigating law enforcement agency, and the person(s) requesting disclosure must be notified and given an opportunity to be heard.

The bill also amends G.S. 132-1.4A to provide that (1) any person who willfully records, copies, or attempts to record or copy a recording disclosed pursuant to the new procedure is guilty of a Class 1 misdemeanor, (2) any person who willfully disseminates a recording or a copy of a recording disclosed pursuant to the new procedure is guilty of a Class I felony, and (3) any attorney acting as a personal representative for the purposes of petitioning for the disclosure or release of body-cam or dash-cam footage must be licensed in North Carolina.

Effective: December 1, 2021 and applies to all requests made on or after that date.

[SENATE BILL 301](#), Expand Expunction Eligibility, makes various changes to the law regarding expunction of nonviolent misdemeanors and nonviolent felonies. Of interest to the criminal justice community, the bill amends G.S. 15A-145.5 as follows:

1. Makes a Class I felony conviction under G.S. 14-56 (breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats or other watercraft) eligible for expunction under the statute. Previously, an offense under G.S. 14-56 was excluded from the definition of "nonviolent felony" and therefore was not eligible for expunction under the statute.
2. Allows a person to file a petition for expunction of up to three nonviolent felony convictions. Previously, a person could only petition for expunction of one nonviolent felony conviction under the statute and only after 10 years had elapsed from the later of the date of conviction for the felony or any active sentence, period of probation, or post-release supervision served. Before a person may file a petition for expunction of two or three nonviolent felonies, 20 years must have elapsed from the date of the most recent conviction listed in the petition, or from the completion of the active sentence, period of probation, or

post-release supervision imposed for any conviction listed in the petition, whichever occurs later. Furthermore, the person cannot have been convicted of any misdemeanor, other than a traffic violation, within the 5 years immediately preceding the petition and cannot have been convicted of another felony within the 20-year waiting period to be eligible for expunction under the statute.

3. Requires the petition for expungement to include an affidavit from the petitioner providing information on any additional petitions for expungement the petitioner has submitted, or intends to submit, in other counties. The bill requires a person seeking expungement of nonviolent misdemeanors and nonviolent felonies in multiple counties to file a petition in each county where the person was convicted and to file all such petitions within a 30-day period.
4. Prohibits a person previously granted an expunction under the statute from obtaining another expunction under the statute unless: (1) the expungements sought are for convictions in separate counties and all petitions were filed within the 30-day period, (2) the person was granted an expunction for nonviolent misdemeanors pursuant to a petition filed prior to December 1, 2021 and is seeking to expunge convictions for nonviolent misdemeanors committed prior to the date of the previous expungement, or (3) the person was granted an expunction for one nonviolent felony pursuant to a petition filed prior to December 1, 2021 and is seeking to expunge convictions for up to two nonviolent felonies committed prior to the date of the previous expungement and within the same 24-month period as the previously expunged felony.

Finally, the bill amends G.S. 15A-145.8A to expand the group of individuals eligible to file a petition to expunge convictions for certain offenses committed below the age of 18 to include an attorney at the request of the person eligible for expunction. Previously, only the person eligible for expunction or the district attorney could file the petition.

Effective: December 1, 2021 and applies to petitions for expungement filed on or after that date.

[SENATE BILL 311](#), No Waiting Period Under LGERS/VFDF Grants, amends G.S. 128-24 to prohibit employers participating in the Local Governmental Employees' Retirement System (LGERS) from imposing a waiting period on law enforcement officers or any other local government employee before they become members of the Retirement System if they are otherwise eligible for membership in LGERS. The bill clarifies that law enforcement officers and local government employees who are full-time, permanent employees as defined in North Carolina's retirement statutes must be entered into the Retirement System as of their date of hire.

Effective: December 1, 2021

[SENATE BILL 321](#), Amend NC Controlled Substances Act, amends various North Carolina statutes dealing with controlled substances. Of interest to the criminal justice community, the bill:

1. Amends G.S. 90-87 to redefine “isomer” to mean optical isomer, unless otherwise specified. Previously, the term meant any type of isomer, including structural, geometric, or optical isomers, and stereoisomers.
2. Amends G.S. 90-87 to redefine “Narcotic drug” to clarify that optical and geometric isomers of cocaine are included within the definition.
3. Amends G.S. 90-89 to add the following substances, and their isomers, esters, ethers, and salts, to the list of Schedule I opiates:
  - a. The optical and geometric isomers of Levophenacymorphan
  - b. Isopropyl-U-47700
  - c. U-51754
  - d. U-48800
  - e. Isotonitazene
  - f. Metonitazene
  - g. Brorphine
4. Amends G.S. 90-89 to specify that the fentanyl derivatives included in Schedule I include any compound currently described in the statute unless the compound is specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration.
5. Amends G.S. 90-89 to provide that the opium derivatives included in Schedule I include any optical, positional, or geometric isomer of those derivatives.
6. Amends G.S. 90-89 to add the following substances, and their isomers (optical, positional, and geometric) or salts, to the list of Schedule I hallucinogenic substances:
  - a. Substituted tryptamines
  - b. Substituted phenylcyclohexylamines
7. Amends G.S. 90-89 to add the following substances, and their salts and isomers, to the list of Schedule I systemic depressants:
  - a. Clonazolam
  - b. Flualprazolam
  - c. Flubromazolam
8. Amends G.S. 90-89 to specify that the optical, positional, and geometric isomers of mephedrone, MDPV, and substituted cathinones are included in the list of Schedule I stimulants.

9. Amends G.S. 90-89 to specify that the optical, positional, and geometric isomers of NBOMe compounds are included in the list of Schedule I controlled substances.
10. Amends G.S. 90-89 to add the following substances to the list of Schedule I controlled substances:
  - a. Substituted phenethylamines
  - b. N-Benzyl phenethylamines
11. Amends G.S. 90-90 to clarify that the optical and geometric isomers of cocaine are included in the list of Schedule II controlled substances.
12. Amends G.S. 90-90 to add Norfentanyl, and its isomers, esters, ethers, and salts, to the list of Schedule II opiates.
13. Amends G.S. 90-91 to clarify that the optical, positional, and geometric isomers of Benzphetamine, Chlorphentermine, Clortermine, and Phendimetrazine are included in the list of Schedule III controlled substances.
14. Amends G.S. 90-92 to add the following substances, and their isomers and salts, to the list of Schedule IV depressants:
  - a. Desalkylflurazepam
  - b. Diclazepam
  - c. Designer benzodiazepines
15. Amends G.S. 90-92 to clarify that the optical, positional, and geometric isomers of Fenfluramine are included in the list of Schedule IV controlled substances.
16. Amends G.S. 90-95 to provide that any person who possesses fentanyl or carfentanil, or any salt, isomer, compound, derivative, or preparation thereof, is guilty of a Class I felony. Previously, simple possession of fentanyl or carfentanil was a Class 1 misdemeanor.
17. Amends G.S. 90-95 to clarify that the offense of selling, manufacturing, delivering, transporting, or possessing more than 28 grams of cocaine also includes doing any of the previously mentioned acts with any optical or geometric isomer of cocaine.
18. Amends G.S. 90-93 to include the following substances, and their isomers and salts, in the list of Schedule V anticonvulsants:
  - a. Cenobamate
  - b. Lasmiditan

Effective: December 1, 2021 and applies to offenses committed on or after that date.

[SENATE BILL 379](#), [Issuance of Unregisterable Cert. of Title](#), enacts G.S. 20-52.2 and G.S. 20-109.1A to authorize the North Carolina Division of Motor Vehicles (DMV) to create and issue an unregistrable certificate of title in the name of a motor vehicle insurance company insuring a vehicle registered in another state that has been declared a total loss due to damage sustained to the vehicle in North Carolina where: (1) the vehicle has remained in this State since it sustained the damage; and (2) the insurance company, after making a written request, has been unable to obtain the properly endorsed title, certificate of ownership, or other evidence of ownership from the vehicle's owner or lienholder (such as a bank).

Among the criteria for issuance of the certificate, the insurance company must provide evidence with its application to the DMV that the owner of the vehicle accepted a settlement payment for the total loss of the vehicle. Newly enacted G.S. 20-52.2 further provides that unregistrable certificates of title will be distinct in color from other vehicle titles and contain a statement that the certificate is solely intended for proof of ownership and use in transferring the vehicle for parts, destruction, or recycling.

Effective: October 1, 2021

[SENATE BILL 390](#), [UNC Law Enforcement Recruitment](#), amends G.S. 116-143 to authorize the Board of Governors of The University of North Carolina (UNC) to provide regulations allowing full-time and part-time campus police officers to enroll in courses at UNC free of tuition. Previously, full-time faculty members of the rank of full-time instructor or above and any full-time staff members of UNC could enroll in up to 3 courses per year at UNC tuition free.

Effective: May 7, 2021 and beginning with the 2021-2022 academic year.

[SENATE BILL 605](#), [North Carolina Farm Act of 2021](#), amends and retitles the criminal offense of cutting, injuring, or removing another's timber in G.S. 14-135. A person is guilty of the new offense of "Larceny of timber" if the person: (1) knowingly and willfully cuts down, injures, or removes any timber owned by another, without the land owner's or timber owner's consent, or without a lawful easement running with the land; or (2) buys timber directly from a timber owner but does not make payment in full by the date specified in the written sales agreement; or when there is no agreement, 60 days from the date the buyer removes the timber from the property. The bill makes this offense a Class G felony and requires an order of restitution.

The bill provides several exceptions to this criminal offense, such as a good faith belief that the owner consented and a good faith belief that the timber was on a utility easement and the action taken was necessary to remove a tree hazard.

Previously, cutting, injuring, or removing another's timber was punishable as a Class H felony if the value of the timber exceeded \$1,000 and as a Class 1 misdemeanor if the value was less than \$1,000.

Effective: December 1, 2021 and applies to offenses committed on or after that date.



[SENATE BILL 733](#), [HOUSE BILL 356](#), and [HOUSE BILL 978](#), 2021 Appointments Bills, make numerous appointments to State commissions and boards. Among those of interest to the criminal justice community are:

The President Pro Tempore of the Senate appoints:

1. Edward L. Kerlin of Wake County is appointed to the 911 Board for a term expiring December 31, 2022.
2. Mel Chilton of New Hanover County is appointed to the Crime Victims Compensation Commission for a term expiring June 30, 2025.
3. Ronald L. Parrish of Alamance County, Richard A. Epley of Burke County, Teresa M. Jardon of Caldwell County, and Michael D. Slagle of Mitchell County are reappointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring June 30, 2023.
4. Cathy Cloninger of Gaston County, Carianne E. Fisher of Durham County, Elizabeth Hunt of Wake County, Kathleen Lockwood of Durham County, and TeAndre Miller of Wake County are appointed to the Domestic Violence Commission for terms beginning September 1, 2021 and expiring August 31, 2023.
5. Crystal Combs Cody of Cabarrus County, Daniel N. Kiger of Surry County, and Robert W. Lee of Anson County are appointed to the North Carolina Criminal Justice Information Network Governing Board for terms expiring June 30, 2025.
6. Marc Nichols of Wake County is reappointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring June 30, 2023.
7. Nada Lawrimore of Wilkes County is appointed to the Private Protective Services Board for a term expiring July 1, 2024.
8. Benjamin Curtis of Rockingham County and Pamela Tyler Thompson of Alamance County are appointed to the Governor's Crime Commission for terms expiring on February 28, 2023.
9. Joseph V. Burns of Forsyth County is appointed to the North Carolina Criminal Justice Information Network Governing Board for a term expiring June 30, 2025, to fill the unexpired term of Robert W. Lee.

The Speaker of the House of Representatives appoints:

1. Jeffrey M. Oliver of Cleveland County, Angela L. Williams of Guilford County, Stanley H. Hicks of Randolph County, and David L. Rose of Stokes County are appointed or reappointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring June 30, 2023.

2. The Honorable Tare Davis of Warren County is appointed to the North Carolina Criminal Justice Information Network Governing Board for a term expiring June 30, 2025.
3. Regina E. Gurley of Wayne County, The Honorable Nathaniel M. Knust of Cabarrus County, and Saira Estrada of Durham County are appointed to the Domestic Violence Commission for terms beginning September 1, 2021 and expiring August 31, 2023.
4. The Honorable Sheriff Alan Norman of Cleveland County is reappointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term beginning September 1, 2021 and expiring August 31, 2024.
5. Fire Chief John T. Cole of Alamance County is appointed to the 911 Board for a term expiring on December 31, 2022, to fill the unexpired term of Cecil V. "Buddy" Martinette, Jr.
6. Effective March 1, 2021, Ricky Parks of Nash County and Hoyt G. Tessener of Wake County are appointed to the Governor's Crime Commission for terms expiring on February 28, 2023.
7. Andy W. Renfrow of Wake County is appointed to the Private Protective Services Board for a term expiring July 1, 2025.

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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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