

# Courts, Justice, and Corrections

See full summary documents for additional detail

## **Prevent Rioting and Civil Disorder.**

SL 2023-6 (H40)

S.L. 2023-6 makes the following changes:

- Clarifies that active conduct is required for criminal prosecution of riot offenses.
- Increases some penalties for current offenses and creates new offenses related to rioting.
- Authorizes a specific civil action for injury to person or property stemming from rioting, looting or trespass during an emergency.
- Includes members of the National Guard in a prohibition on certain assaults on emergency personnel.
- Increases the penalty for certain assaults on emergency personnel.
- Creates requirements for bail and pretrial release for defendants charged with rioting, and looting or trespass during an emergency.

This act became effective December 1, 2023, and applies to offenses committed on or after that date.

## **Guarantee 2nd Amendment Freedom and Protections.**

SL 2023-8 (S41)

S.L. 2023-8 does the following:

- Authorizes an individual who has a valid concealed handgun permit, or who is exempt from obtaining that permit, to carry a handgun in a place of religious worship that is also educational property if:
  - The property is not owned by a local board of education or county commission.
  - The property is not a public or private institution of higher education.
  - The property is not posted with a notice prohibiting carrying a concealed handgun on the premises.
  - The handgun is only possessed and carried on the property outside of school operating hours.
- Authorizes concealed carry for certain law enforcement facility employees.
- Repeals the requirement to obtain a pistol purchase permit from the sheriff prior to the purchase or transfer of a pistol.
- Creates a statewide firearm safe storage awareness initiative to educate the public about safe firearm storage, to facilitate the distribution of gun locks, and to provide local communities with a toolkit to launch local firearm safe storage initiatives.

This bill was vetoed by the Governor on March 24, 2023, and that veto was overridden by the General Assembly on March 29, 2023. This act has various effective dates. Please see the full summary for more details.

### **Modify Property Transfer to Pender County.**

SL 2023-35 (H412)

S.L. 2023-35 authorizes Pender County to grant one or more deeds of trust in connection with financing improvements to property previously transferred to Pender County for construction of a jail and law enforcement center and subordinates a reversionary interest reserved by the State in that property to those deeds of trust or security interests.

This act became effective June 9, 2023.

### **Probation Modifications/Sheriff Authority.**

SL 2023-45 (H87)

S.L. 2023-45 makes the following changes:

- Allows a district attorney to file a probation modification petition.
- Allows the court to delegate the ability to shorten a period of probation to a probation officer.
- Allows all sheriff's offices in the state to contract for food and food services supplies without being subject to certain public contract laws.

This act has various effective dates. Please see full summary for more details.

### **General Statutes Commission Assignments of Error.**

SL 2023-54 (S327)

S.L. 2023-54 conforms the North Carolina General Statutes to the North Carolina Rules of Appellate Procedure by updating obsolete references to "assignments of error" and "exceptions" and makes other technical corrections, as recommended by the General Statutes Commission and the Appellate Rules Committee of the North Carolina Bar Association.

This act became effective June 23, 2023.

### **Modifications to Notary Public Act.**

SL 2023-57 (S552)

S.L. 2023-57 does the following:

- Extends the authority for emergency video notarizations and emergency video witnessing to June 30, 2024.
- Delays the effective date for authority for remote electronic notarizations until July 1, 2024.
- Authorizes a registered electronic notary public to also perform remote electronic notarial acts.
- Makes additional conforming changes to the Electronic Notary Public Act, Article 2 of Chapter 10B of the General Statutes.

This act has various effective dates. Please see the full summary for more details.

### **Innocence Inquiry Commission Provisions.**

SL 2023-74 (H790)

S.L. 2023-74 makes the following modifications related to the North Carolina Innocence Inquiry Commission (Commission):

- Allows the Commission to continue receiving private gifts and donations, and create a related reporting requirement to the General Assembly about these gifts and donations.
- Allows the Commission to continue reviews of any request for review of a case for factual innocence unless the person convicted is deceased with priority given to those where the convicted person is incarcerated solely for the crime for which the request is made.
- Requires a prehearing conference to be held at least 30 days prior to an evidentiary hearing or at any time if the Commission develops evidence of factual innocence.
- Establishes the procedure for the prehearing conference including the Commission providing its evidence and testimony to the claimant and the claimant's attorney, if any.
- Allows the district attorney to provide the Commission a written statement at least 10 days prior to a hearing.
- Requires the Administrative Office of the Courts to appoint a special prosecutor for the Commission hearing when there is evidence of prosecutorial misconduct.

S.L. 2023-74 also expands provisions surrounding the electronic recording of custodial interrogations in places of detention, requires the office of the district attorney be notified of any Combined DNA Index System (CODIS) matches, and requires the recording of law enforcement interviews with certain informants who are in custody.

Except as otherwise provided, this act became effective July 7, 2023.

### **Department of Public Safety Agency Bill.**

SL 2023-86 (S171)

S.L. 2023-86 does all of the following:

- Modifies the State Capitol Police's authority and territorial jurisdiction to arrest.

- Adds the definition of wood residual to Chapter 20 of the General Statutes (Motor Vehicles).
- Modifies the timeframe under which law enforcement is required to enter missing or unidentified person information into NamUs from 30 days to 90 days.
- Modifies the North Carolina Silver Alert System by renaming it; clarifying which missing persons fall under it; limiting required alerts to situations where no more than 72 hours have passed since the person or child went missing; and adding requirements for law enforcement action related to alerts.
- Grants the Adjutant General and National Guard Staff Judge Advocate access to certain criminal investigation records.
- Provides that no provision concerning special trial counsel in the Uniform Code of Military Justice and Manual for Courts-Martial, United States, must apply to courts-martial convened under Article 3 (National Guard) of Chapter 127A of the General Statutes.
- Expands the definition of reportable conviction under Article 27A (Sex Offender and Public Protection Regulation Programs) of Chapter 14 of the General Statutes to include convictions in State court-martial proceedings for offenses substantially similar to an offense against a minor or a sexually violent offense.
- Establishes the Samarcand Training Academy under the Department of Public Safety (DPS).
- Allows DPS to retain the net proceeds from the sale or lease of certain land or facilities.

The modifications to the North Carolina Silver Alert System and the expansion of the reportable convictions for sex-offender registration became effective October 1, 2023. The remainder of the act became effective July 10, 2023.

### **Amend Rule 4/Acceptance of Service - Part III.**

SL 2023-97 (S91)

Part III of S.L. 2023-97 makes the following changes to courtroom procedure:

- Removes the requirement of presiding judge approval for a district court to have jurisdiction to accept a plea for a Class H or I felony.
- Authorizes the chief district court judge to schedule and assign sessions of court for the acceptance of felony pleas and requires the district attorney to calendar those pleas for these sessions.
- Clarifies that when the superior court holds a probation revocation hearing for an offense where the plea was taken in district court, the superior court shall proceed without remanding the matter back to district court except by agreement of the chief district court judge and the resident superior court judge that it is in the best interest of justice.

This Part became effective December 1, 2023. The changes to the acceptance of pleas in district court apply to pleas accepted on or after that date. The changes to probation revocation hearing procedure apply to revocation hearings held on or after that date.

## **Administrative Office of the Courts Court Changes/Amend Expunction.**

SL 2023-103 (H193)

S.L. 2023-103 amends various provisions of the North Carolina General Statutes, as recommended by the Administrative Office of the Courts (AOC), and makes certain changes to the laws related to the expunction of criminal offenses.

This act has various effective dates. Please see the full summary for more detail.

## **Adult Correction/Law Enforcement Changes.**

SL 2023-121 (S492)

S.L. 2023-121 makes the following changes to the General Statutes concerning the Department of Adult Correction (DAC) and law enforcement agencies:

- Allows drug or alcohol screening tests, other than breath, urine, or blood tests, to be used to test for the presence of alcohol or drugs in a person on probation.
- Prohibits the possession of firearm ammunition for people on probation, post-release supervision, or parole.
- Allows DAC to transfer an offender from a State prison to a local confinement facility or federal agency five days earlier than the expiration of the sentence when the offender is subject to an outstanding sentence, detainer, or other lawful process authorizing detention.
- Allows DAC to sell products made by Correction Enterprises to any individual currently incarcerated within a DAC facility.
- Authorizes carrying forward to the next fiscal year the end-of-year current operations appropriations credit balance for DAC utilities resulting from energy conservation measure savings, and makes a technical correction to the UNC system's energy conservation savings statute.
- Requires net proceeds derived from the sale or lease of property owned or used by DAC be deposited in a fund for DAC to make capital improvements.
- Adds certain DAC employees to the list of individuals who are exempt from the law prohibiting the carrying of concealed firearms.
- Exempts DAC entirely from the contested case provisions of the Administrative Procedure Act.
- Extends the date that security guards licensed under the Private Protective Services statutes are authorized to work at State prisons to June 30, 2025.
- Allows prisoners working for a certain program to earn a higher wage for their work within DAC.
- Provides that qualified probation or parole certified officers and qualified correctional officers are deemed to have satisfied the approved firearms safety and training course requirement for a concealed handgun permit.
- Expands the scope of various peer support group counselor provisions to include corrections employees, and makes clarifying changes.

- Authorizes probation officers' exercise of delegated authority in DWI cases unless the presiding judge finds delegation inappropriate.
- Allows DAC to conduct a two-year pilot program to contract for nurses from third-party non-governmental staffing agencies without a 31-day break in service after 11 months of employment.
- Requires arresting law enforcement agencies to fingerprint individuals charged with a misdemeanor crime of domestic violence and forward those fingerprints to the State Bureau of Investigation.
- Corrects references to DAC and the Department of Public Safety in various statutes.

This act has various effective dates. Please see the full summary for more details.

### **Adoption Law/Notary Changes/Guardianship Rights.**

SL 2023-124 (S615)

S.L. 2023-134 made the following changes:

- Section 1 of S.L. 2023-124 allows a former stepparent to adopt an adult adoptee.
- Section 2 of S.L. 2023-124 modifies the law related to the redaction of certain information from a preplacement assessment.
- Section 3 of S.L. 2023-124 expands the acknowledgment options related to agency relinquishments for adoption.

### **Collaboratory Report on Recovery Court Study Results – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 8.11

Section 8.11 of S.L. 2023-134 directs the North Carolina Collaboratory to study existing judicially managed accountability and recovery courts and to report the results of its study to various legislative committees no later than October 1, 2024.

This section became effective October 3, 2023.

### **Magistrate-Clerk Staffing Program – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.2

Section 16.2 of S.L. 2023-134 allows the clerk of superior court in a county, with written or emailed consent of the chief district court judge, to hire one deputy or assistant clerk in lieu of one of the magistrate positions allocated to that county. The clerk of superior court's office must provide some of the services traditionally provided by the magistrates' office during some or all of the regular courthouse hours. The Administrative Office of the Courts (AOC) must report by March 1 of each year to the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public

Safety on the following topics: 1) all deputy or assistant clerk positions previously filled pursuant to this subsection if the position remains filled pursuant to this subsection; and 2) new deputy or assistant clerk positions filled pursuant to this subsection.

This section became effective July 1, 2023.

### **Require Reporting on Remote Work Policies and Participation – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.12

Section 16.12 of S.L. 2023-134 requires the Administrative Office of the Courts (AOC) to maintain and furnish a remote work policy upon request.

This section became effective October 1, 2023.

### **Raise Mandatory Retirement Age for Appellate Judges – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.14

Section 16.14 of S.L. 2023-134 creates age limits for judges. This section prohibits any justice or judge of the appellate division of the General Court of Justice from continuing in office beyond the last day of the month in which the justice or judge attains 76 years of age. Justices and judges so retired may be recalled for periods of temporary service. Superior court and district court judges are prohibited from continuing in office beyond the last day of the month in which the judge attains 72 years of age, but retired judges may be recalled for periods of temporary service.

This section became effective October 3, 2023, and applies to justices, judges, and magistrates serving on or after that date, provided that nothing in this section may be construed to automatically halt the retirement process of a justice, judge, or magistrate that has already initiated that process.

### **Modify Members and Reporting Requirements of the Sentencing and Policy Advisory Commission – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.16

Section 16.16 of S.L. 2023-134 adds the Secretary of the Department of Public Safety or the Secretary's designee as a member of the Sentencing and Policy Advisory Commission ("Commission") and modifies the appointment criteria for two members of the Commission.

This section also assigns to the Department of Adult Correction responsibility formerly assigned to its Division of Prisons and its Division of Community Supervision and Reentry, for conducting certain studies and making biennial reports to the General Assembly, jointly with the Commission.

This section became effective July 1, 2023.

### **Create New Special Superior Court Judges – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.19

Section 16.19 of S.L. 2023-134 provides that upon retirement, resignation, removal from office, death, or expiration of the term of any special superior court judge on or after September 1, 2014, each judgeship shall be filled for a full eight-year term (previously a five-year term). Further, effective January 1, 2024, the General Assembly may appoint, by enactment of a bill, 10 special superior court judges to serve terms expiring at the earlier of 1) eight years from the date that each judge takes office, or 2) the date of the judge's death, retirement, resignation, or removal from office. Five of these judges shall be nominated by the Speaker of the House of Representatives, one residing in each of the five judicial districts, and five shall be nominated by the President Pro Tempore of the Senate, one residing in each of the five judicial districts.

Special superior court judgeships in place as of April 1, 2023, whether filled or vacant, shall be extended to an eight-year term. This section applies to all special superior court judges currently filling these judgeships, whether serving an appointment for the full term or serving the remainder of an unexpired term, in which case the unexpired term shall be similarly extended to be an eight-year term.

This section became effective July 1, 2023.

### **Modify Judicial Standards Commission Membership – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.20

Section 16.20 of S.L. 2023-134 modifies the membership of the Judicial Standards Commission by:

- Providing that four seats formerly held by members of the State Bar elected by the State Bar Council will now be held by two district court judges and two superior court judges appointed by the General Assembly.
- Permitting members of the State Bar to be appointed to fill any of the four seats designated for public members.

This section became effective October 3, 2023.



## **Competitive Grants for Nonprofit Organizations Providing Services to Victims of Human Trafficking – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.23

Section 16.23 of S.L. 2023-134 requires the Human Trafficking Commission to develop and implement a program to award grants to eligible nonprofit organizations that directly provide services to victims of human trafficking.

This section became effective July 1, 2023.

## **Allow Appellate Judges to Carry Concealed Weapons in Certain Instances – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 16.33

Section 16.33 of S.L. 2023-134 adds any judge of the North Carolina Court of Appeals and any justice of the North Carolina Supreme Court to those judges who can carry or possess a concealed handgun in a building housing a court of the General Court of Justice if the judge or justice is in the building to discharge his or her official duties and the judge or justice has a concealed handgun permit.

This section became effective July 1, 2023.

## **Require Reporting on Remote Work Policies and Participation – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 17.2

Section 17.2 of S.L. 2023-134 requires the Office of Indigent Defense Services (IDS) to maintain and furnish a remote work policy upon request.

This section became effective October 1, 2023.

## **Require Reporting on Remote Work Policies and Participation – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 18.2

Section 18.2 of S.L. 2023-134 requires the Department of Justice (DOJ) to maintain and furnish a remote work policy upon request.

This section became effective October 1, 2023.

**Require Reporting on Remote Work Policies and Participation – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 19A.4

Section 19A.4 of S.L. 2023-134 requires the Department of Adult Correction (DAC) to maintain and furnish a remote work policy upon request.

This section became effective October 1, 2023.

**Make Drug and Alcohol Screening a Regular Condition of Probation – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 19C.2

Section 19C.2 of S.L. 2023-134 changes a regular condition of probation to require that defendants on probation submit to drug and alcohol testing without restricting the type of test.

This section of the act became effective December 1, 2023.

**Extend Sunset Date for Use of Security Guards at State Prisons and Related Reporting Requirement – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 19C.5

Section 19C.5 of S.L. 2023-134 sets the sunset date for use of security guards by the Department of Adult Correction on June 30, 2025.

This section of the act became effective October 3, 2023.

**Require Reporting on Remote Work Policies and Participation – 2023 Appropriations Act.**

SL 2023-134 (H259), Sec. 19F.5

Section 19F.5 of S.L. 2023-134 requires the Department of Public Safety (DPS) to maintain and furnish a remote work policy upon request.

This section became effective October 1, 2023.

**Breaking or Entering Into or Breaking Out of Railroad Cars, Motor Vehicles, Trailers, Aircraft, Boats, or Other Watercraft; Aggregation of Financial Crimes; Hearsay Exceptions; Availability of Declarant Immaterial – Various Changes to Criminal and Civil Laws.**

SL 2023-151 (S409), Sec. 1-3

Section 1 of S.L. 2023-151 modifies the criminal law for breaking and entering a vehicle of any kind to increase the punishment depending on the value of the property taken from the vehicle and provides concurrent jurisdiction to the court of each county where each incident occurred. This section became effective December 1, 2023, and applies to offenses committed on or after that date.

Section 2 of S.L. 2023-151 permits the aggregation of multiple convictions of financial crimes for sentencing and provides concurrent jurisdiction to the court of each county where one of the financial crimes occurred. This section becomes effective March 1, 2024, and applies to offenses committed on or after that date.

Section 3 of S.L. 2023-151 expands the business records exception to the rule against hearsay by allowing a custodian or witness to certify under penalty of perjury that a document was kept in the regular course of business. This section becomes effective March 1, 2024.