

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 1141

Short Title: Technical/Conforming Changes for the Courts.-AB (Public)

Sponsors: Representative Stevens.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 31, 2022

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO
3 VARIOUS PROVISIONS AFFECTING OUR STATE COURT SYSTEM AND TO
4 APPROPRIATE FUNDS.

5 The General Assembly of North Carolina enacts:

6
7 **JUDICIAL SUPPORT STAFF TITLE CONFORMING CHANGES**

8 **SECTION 1.(a)** Article 29A of Chapter 7A of the General Statutes reads as
9 rewritten:

10 "Article 29A.

11 "~~Trial~~Court Administrators.

12 "**§ 7A-355. ~~Trial court~~Court administrators.**

13 The following districts or sets of districts as defined in G.S. 7A-41.1(a) shall have trial court
14 administrators: Set of districts 10A, 10B, 10C, 10D; District 22 and District 28, and such other
15 districts or sets of districts as may be designated by the Administrative Office of the Courts.

16 "**§ 7A-356. Duties.**

17 The duties of each ~~trial~~ court administrator shall be to assist in managing civil dockets, to
18 improve jury utilization and to perform such duties as may be assigned by the senior resident
19 superior court judge of his district or set of districts as defined in G.S. 7A-41.1(a) or by other
20 judges designated by that senior resident superior court judge.

21"

22 **SECTION 1.(b)** This section is effective when it becomes law.

23
24 **EXPUNCTIONS DISCLOSURE CORRECTION TO RECONCILE SESSION LAWS**
25 **2020-35 AND 2021-107**

26 **SECTION 2.(a)** G.S. 15A-151(a) reads as rewritten:

27 "(a) The Administrative Office of the Courts shall maintain a confidential file for
28 expungements containing the petitions granted under this Article and the names of those people
29 for whom it received a notice under G.S. 15A-150. The information contained in the file may be
30 disclosed only as follows:

31 ...

32 (4) Upon request of State or local law enforcement, if the criminal record was
33 expunged under this Chapter ~~15A-145.8A, 15A-146~~ for employment purposes
34 only.



1 (5) Upon the request of the North Carolina Criminal Justice Education and
2 Training Standards Commission, if the criminal record was expunged under
3 this Chapter ~~15A-145.8A, 15A-146~~ for certification purposes only.

4 (6) Upon request of the North Carolina Sheriff's Education and Training
5 Standards Commission, if the criminal record was expunged under this
6 Chapter ~~15A-145.8A, 15A-146~~ for certification purposes only.

7"

8 **SECTION 2.(b)** This section is effective when it becomes law and applies
9 retroactively to requests for disclosure of expunctions made on or after October 1, 2021.

10 11 **SATELLITE-BASED MONITORING CONFORMING CHANGE**

12 **SECTION 3.(a)** Section 18(o) of S.L. 2021-138 reads as rewritten:

13 **"SECTION 18.(o)** The Division of Adult Correction and Juvenile Justice shall provide each
14 elected District Attorney a list of the individuals that reside in a county in that District Attorney's
15 district that is subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), decided August 16, 2019,
16 namely all individuals in the same category as the defendant, Mr. Grady: individuals subject to
17 mandatory lifetime satellite-based monitoring based solely on their status as a statutorily defined
18 "recidivist" who have completed their prison sentences and are no longer supervised by the State
19 through probation, parole, or post-release supervision. An elected District Attorney must decide
20 to handle each case or have the Attorney General handle the case. If requested by an elected
21 District Attorney, the Attorney General shall make a preliminary determination whether the
22 recidivist subject to State v. Grady, may meet any requirement to enroll in a satellite-based
23 monitoring program other than being a recidivist, and represent the State in any proceedings
24 created by this section. Each District Attorney or Attorney General shall review the determination
25 for every one of the class members. If the District Attorney or Attorney General makes a
26 preliminary determination that the individual may meet any requirement to enroll in a
27 satellite-based monitoring program other than being a recidivist, they shall notify the person and
28 the sheriff in the county where the individual resides. The District Attorney or Attorney General
29 may petition the court in that county for a hearing to have a judge determine if an individual
30 subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), meets the criteria for satellite-based
31 monitoring consistent with G.S. 14-208.40A, as amended by this ~~act~~ act and Senate Bill 183, if
32 it becomes law."

33 **SECTION 3.(b)** This section is effective when it becomes law.

34 35 **CORRECT GENERAL COURT OF JUSTICE FEE REFERENCE**

36 **SECTION 4.(a)** G.S. 20-135.2A(e) reads as rewritten:

37 "(e) Any driver or front seat passenger who fails to wear a seat belt as required by this
38 section shall have committed an infraction and shall pay a penalty of twenty-five dollars and fifty
39 cents (\$25.50) plus the following court costs: the General Court of Justice fee provided for in
40 G.S. 7A-304(a)(4), the telephone facilities fee provided for in G.S. 7A-304(a)(2a), and the law
41 enforcement training and certification fee provided for in G.S. 7A-304(a)(3b). Any rear seat
42 occupant of a vehicle who fails to wear a seat belt as required by this section shall have committed
43 an infraction and shall pay a penalty of ten dollars (\$10.00) and no court costs. ~~Court costs~~
44 ~~assessed under this section are for the support of the General Court of Justice and shall be remitted~~
45 ~~to the State Treasurer.~~ Conviction of an infraction under this section has no other consequence."

46 **SECTION 4.(b)** This section is effective when it becomes law.

47 48 **FIRST APPEARANCE CONFORMING CHANGES**

49 **SECTION 5.(a)** G.S. 15A-601(e) reads as rewritten:

50 "(e) The clerk of the superior court in the county in which the defendant is taken into
51 custody may conduct a first appearance as provided in this Article if a district court judge is not

1 available in the county within 72 hours after the defendant is taken into custody. A magistrate
 2 may conduct the first appearance if the clerk is not available. ~~The~~ For the limited purpose of
 3 conducting a first appearance and notwithstanding any other provision of law, the clerk or
 4 magistrate, in conducting a first appearance, magistrate shall proceed under this Article as would
 5 a district court judge-judge and shall have the same authority that a district court judge has at a
 6 first appearance."

7 **SECTION 5.(b)** G.S. 15A-604 reads as rewritten:

8 "**§ 15A-604. Determination of sufficiency of charge.**

9 (a) The judge must examine each criminal process or magistrate's order and determine
 10 whether each charge against the defendant charges ~~a~~ either:

11 (1) A criminal offense within the original jurisdiction of the superior court.

12 (2) A misdemeanor offense within the original jurisdiction of the district court.

13 (b) If the judge determines that the process or order fails to charge a criminal offense
 14 within the original jurisdiction of the superior ~~court, he~~ court or a misdemeanor within the
 15 original jurisdiction of the district court, the judge must notify the prosecutor and take further
 16 appropriate action, including one or more of the following:

17 ...

18 (4) ~~With~~ For a pleading that purported to allege an offense within the original
 19 jurisdiction of the superior court, with the consent of the prosecutor, set the
 20 case for trial in the district court if the charge is found to be within the original
 21 jurisdiction of the district court."

22 **SECTION 5.(c)** G.S. 15A-606(a) reads as rewritten:

23 "(a) ~~The~~ If a defendant is charged with an offense within the original jurisdiction of the
 24 superior court, the judge must schedule a probable-cause hearing unless the defendant waives in
 25 writing his-the defendant's right to such hearing. A defendant represented by counsel, or who
 26 desires to be represented by counsel, may not before the date of the scheduled hearing waive his
 27 the defendant's right to a probable-cause hearing without the written consent of the defendant
 28 and his-the defendant's counsel."

29 **SECTION 5.(d)** This section is effective when it becomes law and applies to first
 30 appearances conducted on or after that date.

31 **CRIMINAL PROCEDURE CONFORMANCE FOR ELECTRONIC COURTS**

32 **SECTION 6.(a)** G.S. 12-3 reads as rewritten:

33 "**§ 12-3. Rules for construction of statutes.**

34 In the construction of all statutes the following rules shall be observed, unless such
 35 construction would be inconsistent with the manifest intent of the General Assembly, or
 36 repugnant to the context of the same statute, that is to say:

37 ...

38 (8) "Seal". – In all cases in which the seal of any court or public office shall be
 39 required by law to be affixed to any paper issuing from such court or office,
 40 the word "seal" shall be construed to include an impression of such official
 41 seal, made upon the paper alone, ~~as well as an impression made by means of~~
 42 a wafer or of wax affixed thereto-thereto, or an image or other mark adopted
 43 by said court or office as its seal.

44 ...

45 (10) "Written" and "in Writing". – The words "written" and "in writing" may be
 46 construed to include printing, engraving, lithographing, and any other mode
 47 of representing words and letters: Provided, that in all cases where a written
 48 signature is required by law, the same shall be in a proper handwriting, or in
 49 a proper ~~mark~~ mark affixed by the use of any manual, mechanical, or
 50

1 electronic means that causes the individual's signature to appear in or on the
2 document.

3 "

4 **SECTION 6.(b)** G.S. 15-189 reads as rewritten:

5 **"§ 15-189. Sentence of death; prisoner taken to penitentiary.**

6 Upon the sentence of death being pronounced against any person in the State of North
7 Carolina convicted of a crime punishable by death, it shall be the duty of the judge pronouncing
8 such death sentence to make the same in writing, which shall be filed in the ~~papers in record of~~
9 the case against such convicted person. The clerk of the superior court in which such death
10 sentence is pronounced shall prepare a certified copy of said judgment or sentence of death,
11 including therewith a copy of any notice or entries of appeal made in such case; if no entries or
12 notice of appeal have been made or given in such case, a statement to the effect shall be included
13 in the certificate of the clerk; it shall also be the duty of the district attorney, assistant district
14 attorney, or attorney prosecuting in behalf of the State in the absence of the district attorney, to
15 prepare and sign a certificate stating in substance that he prosecuted said case in behalf of the
16 State and that notice or entries of appeal have or have not been made or given in said case, and
17 further that he has examined a copy of said judgment or sentence of death certified by the clerk,
18 including the copy of the notice or entries of appeal or statement to the effect that no appeal has
19 been given, and to the best of his knowledge the same is correct; the certificate of said district
20 attorney, or other prosecuting officer above named, shall be attached to the certified copy of said
21 sentence of death, as prepared and certified by the clerk, and both certificates shall be transmitted
22 by the clerk of the superior court in which said sentence of death is pronounced to the warden of
23 the State penitentiary at Raleigh, North Carolina; at the same time and in the same manner, a
24 duplicate original of said certificates shall be prepared by the clerk of the superior court and the
25 district attorney, or other prosecuting officer above named, and the said duplicate original or said
26 certificates shall be transmitted to the Attorney General of North Carolina. If notice of appeal is
27 given or entries of appeal are made after the expiration of the term of superior court in which said
28 sentence of death is pronounced, said certificates shall be prepared by the clerk of the superior
29 court in which said sentence is pronounced and by the district attorney, or other prosecuting
30 officer above named, prosecuting in behalf of the State, in the same manner and shall be
31 transmitted as soon as possible to the warden of the State penitentiary at Raleigh, North Carolina,
32 and to the Attorney General of North Carolina. The above certificates so prepared by the clerk
33 of the superior court in which such sentence of death is pronounced and by the district attorney,
34 or other prosecuting officer above named, shall be transmitted by the clerk of the superior court
35 in which such sentence is pronounced to the warden of the State penitentiary at Raleigh, North
36 Carolina, and to the Attorney General of North Carolina, not more than 20 or less than 10 days
37 before the time fixed in the judgment of the court for the execution of the sentence; and in all
38 cases where there is no appeal, said sentence of death shall not be carried out by the warden of
39 the State penitentiary or by any of his deputies or agents until said certificates so prepared and
40 transmitted by the clerk of the superior court in which said sentence of death is pronounced, and
41 by the district attorney, or the prosecuting officer above named, have been received in the office
42 of the warden of the State penitentiary at Raleigh, North Carolina. In all cases where there is no
43 appeal from the sentence of death and in all cases where the sentence is pronounced against a
44 prisoner convicted of the crime of rape it shall be the duty of the sheriff, together with at least
45 one deputy, to convey to the penitentiary, at Raleigh, North Carolina, such condemned felon or
46 convict forthwith upon the adjournment of the court in which the felon was tried, and deliver the
47 convict or felon to the warden of the penitentiary."

48 **SECTION 6.(c)** G.S. 15-192 reads as rewritten:

49 **"§ 15-192. Certificate filed with clerk.**

50 The warden, together with the licensed physician who was present on the premises to
51 pronounce death as required by G.S. 15-190, shall certify the fact of the execution of the

1 condemned person, convict or felon to the clerk of the superior court in which such sentence was
2 pronounced, and the clerk shall file such certificate with the ~~papers-record~~ of the case and enter
3 the same upon the records thereof."

4 **SECTION 6.(d)** G.S. 15A-101.1 reads as rewritten:

5 **"§ 15A-101.1. Electronic technology in criminal process and procedure.**

6 As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General
7 Statutes, and in all other provisions of the General Statutes that deal with criminal process or
8 procedure:

9 (1) "Copy" means all identical versions of a document created or existing in paper
10 or electronic form, including the original and all other identical versions of the
11 ~~document in paper form~~.document. Except where otherwise expressly
12 provided by law or when authority is vested only in a certified copy, a copy
13 of a document is equally authoritative as the original.

14 ...

15 (5) ~~"Electronic signature" means any electronic method of signing a document~~
16 ~~that meets each of the following requirements:~~

17 a. ~~Identifies and authenticates a particular person as the signer of the~~
18 ~~document, is unique to the person using it, is capable of certification,~~
19 ~~and is under the sole control of the person using it.~~

20 b. ~~Is attached to or logically associated with the document in such a~~
21 ~~manner that if the document is altered in any way without~~
22 ~~authorization of the signer, the signature is invalidated.~~

23 e. ~~Indicates that person's intent to issue, enter or otherwise authenticate~~
24 ~~the document.~~

25 ...

26 (7) "Filing" or "filed" means:

27 ...

28 b. When the document is in electronic form, creating and saving the
29 document, or transmitting it, in such a way that it is unalterably
30 retained in the electronic records of the office where the document is
31 to be filed. A document is "unalterably retained" in an electronic
32 record when it may not be edited or otherwise altered except by a
33 person with authorization to do so. ~~Filing is complete when the~~
34 ~~document has first been unalterably retained in the electronic records~~
35 ~~of the office where the document is to be filed.~~

36 (8) "Issued" applies to documents in either paper form or electronic form. A
37 document that is first created in paper form is issued when it is signed. A
38 document that is first created in electronic form is issued when it is ~~signed,~~
39 signed and filed in the office of the clerk of superior court of the county for
40 which it is to be ~~issued, and retained in the Electronic Repository~~.issued.

41 ...

42 (10) "Signature" means any symbol, including, but not limited to, the name of an
43 individual, which is executed by that individual, personally or through an
44 authorized agent, with the intent to authenticate or to effect the issuance or
45 entry of a document. ~~The term includes an electronic signature.~~A document
46 may be signed by the use of any manual, mechanical or electronic means that
47 causes the individual's signature to appear in or on the document. Any party
48 challenging the validity of a signature shall have the burden of pleading,
49 producing evidence, and proving ~~the following:~~

50 a. ~~The~~that the signature was not the act of the person whose signature it
51 appears to be.

b. ~~If the signature is an electronic signature, the requirements of subdivision (5) of this section have not been met.~~

(11) "Attach" or "attached" means, when referring to documents existing in paper form, physical attachment by staples, clips, or other mechanical means, or managed such that neither document is stored or delivered without the other. When referring to documents stored in electronic form, the term means either storage as a single digital file or storage in a manner that a user interface for access to the documents displays clearly the logical association between them, to the exclusion of other, unassociated documents displayed with them. When referring to documents delivered in electronic form, the term means documents delivered simultaneously and via the same mechanism or medium, including, but not limited to, delivery via a single email message on a single unit of removable electronic media, or in immediate, contemporaneous sequence with one another from the same source to the same recipient. It is not necessary that the relationship between documents appear on the face of the documents in order to be deemed attached."

SECTION 6.(e) G.S. 15A-131(f) reads as rewritten:

"(f) For the purposes of this Article, pretrial proceedings are proceedings occurring after the initial appearance ~~before the magistrate~~ and prior to arraignment."

SECTION 6.(f) G.S. 15A-301 reads as rewritten:

"§ 15A-301. Criminal process generally.

(a) Formal Requirements. –

...

(2) Criminal process, other than a citation, must be signed and dated by the ~~justice, judge, magistrate, or clerk~~ judicial official who issues it. The citation must be signed and dated by the law-enforcement officer who issues it.

...

(b1) Approval by District Attorney; school personnel. – Notwithstanding any other provision of law, no warrant for arrest, order for arrest, criminal summons, or other criminal process shall be issued by a magistrate against a school employee, as defined in G.S. 14-33(c)(6), for an offense that occurred while the school employee was in the process of discharging his or her duties of employment, without the prior written approval of the district attorney or the district attorney's designee. ~~For purposes of this subsection, the term "district attorney" means the person elected to the office of district attorney.~~ This subsection does not apply if the offense is a traffic offense or if the offense occurred in the presence of a sworn law enforcement officer. The district attorney may decline to accept the authority set forth in this subsection; in such case, the procedure and review authority shall be as set forth in subsection (b2) of this section.

(b2) Magistrate review; school personnel. – A district attorney may decline the authority provided under subsection (b1) of this section by ~~transmitting~~ filing a letter so indicating with the clerk of superior court. ~~The district attorney shall provide a copy of the filed letter to the chief district court judge. Upon receipt of a the letter from the district attorney declining the authority provided in subsection (b1) of this section, attorney,~~ the chief district court judge shall appoint a magistrate or magistrates to review any application for a warrant for arrest, order for arrest, criminal summons, or other criminal process against a school employee, as defined in G.S. 14-33(c)(6), where the allegation is that the school employee committed a misdemeanor offense while discharging his or her duties of employment. The failure to comply with any of the requirements in this subsection shall not affect the validity of any warrant, order, summons, or other criminal process. The following exceptions apply to the requirements in this subsection:

...."

SECTION 6.(g) G.S. 15A-301.1 reads as rewritten:

"§ 15A-301.1. Electronic Repository.

1 (a) The Administrative Office of the Courts shall ~~create and~~ maintain, in cooperation with
 2 State and local law enforcement agencies, an automated electronic repository or repositories
 3 for criminal process (hereinafter referred to collectively as the Electronic Repository), which shall
 4 comprise a secure system of electronic data entry, storage, and retrieval that provides for creating,
 5 signing, issuing, entering, filing, and retaining criminal process in electronic form, and that
 6 provides for the following with regard to criminal process in electronic form:

7 ...

8 ~~The Administrative Office of the Courts shall assure that all electronic signatures effected~~
 9 ~~through use of the system meet the requirements of G.S. 15A-101.1(5).~~

10 ...

11 (k) Service Requirements for Process Entered in the Electronic Repository. – The copy
 12 of ~~the a~~ process printed for the purpose of service shall be served not later than 24 hours after it
 13 has been printed. The date, time, and place of service shall promptly be recorded in the Electronic
 14 Repository and shall be part of the official records of the court. If the process is not served within
 15 24 hours, that fact shall promptly be recorded in the Electronic Repository and all copies of the
 16 process in paper form shall be destroyed. The process may again be printed in paper form at later
 17 times and at the same or other places. Subsection (f) of this section applies to each successively
 18 printed copy of the process. ~~When service of the warrant is no longer being actively pursued, that~~
 19 ~~fact shall be promptly recorded in the Electronic Repository.~~

20"

21 **SECTION 6.(h)** G.S. 15A-302(d) reads as rewritten:

22 "(d) Service. – A copy of the citation shall be delivered to the person ~~cited who may sign~~
 23 ~~a receipt on the cited. The original which shall thereafter be filed with the clerk by the officer. If~~
 24 ~~the cited person refuses to sign, the officer shall certify delivery of the citation by signing the~~
 25 ~~original, which shall thereafter be filed with the clerk. Failure of the person cited to sign the~~
 26 ~~citation shall not constitute grounds for his arrest or the requirement that he post a bond. When a~~
 27 citation is issued for a parking offense, a copy shall be delivered to the operator of a vehicle who
 28 is present at the time of service, or shall be delivered to the registered owner of the vehicle if the
 29 operator is not present by affixing a copy of the citation to the vehicle in a conspicuous place."

30 **SECTION 6.(i)** G.S. 15A-531(2) reads as rewritten:

31 "**§ 15A-531. Definitions.**

32 As used in this Article the following definitions apply unless the context clearly requires
 33 otherwise:

34 ...

35 (2) "Address of record" means:

36 ...

37 b. For an insurance company, the address ~~of the insurance company as it~~
 38 ~~appears on the power of appointment of the company's bail agent~~
 39 registered with the ~~clerk of superior court~~ Administrative Office of the
 40 Courts under G.S. 58-71-140.

41 c. For a bail agent, the address shown on the bail agent's license from the
 42 Department of ~~Insurance~~ Insurance, as registered with the ~~clerk of~~
 43 ~~superior court~~ Administrative Office of the Courts under
 44 G.S. 58-71-140.

45 d. For a professional bondsman, the address shown on that bondsman's
 46 license from the Department of Insurance, as registered with the ~~clerk~~
 47 ~~of superior court~~ Administrative Office of the Courts under
 48 G.S. 58-71-140.

49"

50 **SECTION 6.(j)** G.S. 15A-537(b) reads as rewritten:

1 "(b) Upon release of the person in question, the person effecting release must file any
2 bond, deposit, or mortgage and other ~~papers~~ documents pertaining to the release with the clerk
3 of the court in which release was authorized."

4 **SECTION 6.(k)** G.S. 58-71-140 reads as rewritten:

5 "**§ 58-71-140. Registration of licenses and power of appointments by insurers.**

6 (a) Before the date ~~of the notice~~ provided for in subsection (e) of this section, no
7 professional bail bondsman shall become a surety on an undertaking unless he or she has
8 registered his or her current license in the office of the clerk of superior court in the county in
9 which he or she resides and a certified copy of the same with the clerk of superior court in any
10 other county in which he or she shall write bail bonds.

11 (b) Before the date ~~of the notice~~ provided for in subsection (e) of this section, a surety
12 bondsman shall register his or her current surety bondsman's license and a certified copy of his
13 or her power of appointment with the clerk of superior court in the county in which the surety
14 bondsman resides and with the clerk of superior court in any other county in which the surety
15 bondsman writes bail bonds on behalf of an insurer.

16 (c) Before the date ~~of the notice~~ provided for in subsection (e) of this section, no runner
17 shall become surety on an undertaking on behalf of a professional bondsman unless that runner
18 has registered his or her current license and a certified copy of his or her power of attorney in the
19 office of the clerk of superior court in the county in which the runner resides and with the clerk
20 of superior court in any other county in which the runner writes bail bonds on behalf of the
21 professional bondsman.

22 (c1) On or after the date ~~of the notice~~ provided for in subsection (e) of this section, all
23 licensed professional bail bondsmen, surety bondsmen, and runners shall register in the statewide
24 Electronic Bondsmen Registry in accordance with subsection (e) of this section.

25 ...

26 (e) On or before October 1, 2006, the Administrative Office of the Courts shall establish
27 a statewide Electronic Bondsmen Registry (Registry) for all ~~licenses, powers of appointment,~~
28 ~~and powers of attorney licenses~~ requiring registration under this section. ~~When the Registry is~~
29 ~~established, the Administrative Office of the Courts shall notify the Commissioner and the~~
30 ~~Commissioner shall notify all licensed professional bondsmen, surety bondsmen, runners, and~~
31 ~~qualified insurance companies of the Registry. On or after the date of that notice, that date, a~~
32 person may register as required under this section by maintaining a record of each required
33 license, power of appointment, or power of attorney in the Registry. After a License information
34 in the Registry for bail bondsmen and insurance companies shall be provided to the
35 Administrative Office of the Courts by the Commissioner or by an entity designated by the
36 Commissioner to provide the information on the Commissioner's behalf. A bondsman, surety
37 bondsman, or runner has completed registration appearing in the Registry, he or she Registry is
38 authorized to execute bail bonds pursuant to his or her registered license, power of appointment,
39 or power of attorney in all counties so long as the registered license, power of appointment, or
40 power of attorney remains in ~~effect~~ effect, and the execution of a proposed bond is not otherwise
41 prohibited pursuant to G.S. 15A-544.7(d)."

42 **SECTION 6.(l)** G.S. 15A-744 reads as rewritten:

43 "**§ 15A-744. Costs and expenses.**

44 Subject to the requirements and restrictions set forth in this section, if the crime is a felony
45 or if a person convicted in this State of a misdemeanor has broken the terms of ~~his~~ the person's
46 probation or parole, reimbursements for expenses shall be paid out of the State treasury on the
47 certificate of the Governor. In all other cases, such expenses or reimbursements shall be paid out
48 of the county treasury of the county wherein the crime is alleged to have been committed
49 according to such regulations as the board of county commissioners may promulgate. In all cases,
50 the expenses, for which repayment or reimbursement may be claimed, shall consist of the
51 reasonable and necessary travel expense and subsistence costs of the extradition agent or fugitive

1 officer, as well as the fugitive, together with such legal fees as were paid to the officials of the
2 state on whose governor the requisition is made. The person or persons designated to return the
3 fugitive shall not be allowed, paid or reimbursed for any expenses in connection with any
4 requisition or extradition proceeding unless the expenses are itemized, the statement of same be
5 sworn to under oath, and shall not then be paid or reimbursed unless a receipt is obtained showing
6 the amount, the purpose for which ~~said the~~ item or sum was expended, the place, date and to
7 whom paid, and ~~said receipt or receipts attached to said the~~ sworn statement and filed with the
8 Governor. The Governor shall have the authority, upon investigation, to increase or decrease any
9 item or expenses shown in said sworn statement, or to include items of expenses omitted by
10 mistake or inadvertence. The decision or determination of the Governor as to the correct amount
11 to be paid for such expenses or reimbursements shall be final. When it is deemed necessary for
12 more than one agent, extradition agent, fugitive officer or person, to be designated to return a
13 fugitive from another state to this State, the district attorney or prosecuting officer shall file with
14 ~~his a~~ written application to the Governor of this State an affidavit setting forth in detail the
15 grounds or reasons why it is necessary to have more than one extradition agent, fugitive officer
16 or person to be so designated. Among other things, and not by way of limitation, the affidavit
17 shall set forth whether or not the alleged fugitive is a dangerous person, ~~his the~~ alleged fugitive's
18 previous criminal record if any, and any record of ~~said the~~ alleged fugitive on file with the Federal
19 Bureau of Investigation or with the prison authorities of this State. As a further ground or reason
20 for more than one extradition agent or fugitive officer to be designated, it may be shown in ~~said~~
21 the affidavit the number of fugitives to be returned to this State and any other grounds or reasons
22 for which more than one extradition agent or fugitive officer is desired. If the Governor finds or
23 determines from ~~his the~~ Governor's own investigation and from the information made available
24 to ~~him the~~ Governor that more than one extradition agent or fugitive officer is necessary for the
25 return of a fugitive or fugitives to this State, ~~he the~~ Governor may designate more than one
26 extradition agent or fugitive officer for ~~such that~~ purpose. All travel for which expenses or
27 reimbursements are paid or allowed under this section shall be by the nearest, direct, convenient
28 route of travel. If the extradition agent or agents or person or persons designated to return a
29 fugitive or fugitives from another state to this State shall elect to travel by automobile, a sum not
30 exceeding seven cents (7¢) per mile may be allowed in lieu of all travel expense, and which shall
31 be paid upon a basis of mileage for the complete trip. The Governor may promulgate executive
32 orders, rules and regulations governing travel, forms of statements, receipts or any other matter
33 or objective provided for in this section. The Governor may delegate any or all of the duties,
34 powers and responsibilities conferred upon ~~him the~~ Governor by this section to any executive
35 agent or executive clerk on ~~his the~~ Governor's staff or in ~~his the~~ Governor's office, and ~~such that~~
36 executive agent or executive clerk, when properly authorized, may perform any or all of the
37 duties, powers and responsibilities conferred upon the Governor. Provided that if the fugitive
38 from justice is an alleged felon, and ~~he the~~ fugitive from justice be returned without the service
39 of extradition ~~papers process~~ by the sheriff or the agent of the sheriff of the county in which the
40 felony was alleged to have been committed, the expense of ~~said the~~ return shall be borne by the
41 State of North Carolina under the rules and regulations made and promulgated by the Governor
42 of North Carolina or the executive agent or the executive clerk to whom the ~~said~~ Governor may
43 have delegated ~~his the~~ Governor's duties under this section."

44 **SECTION 6.(m)** G.S. 15A-832(g) reads as rewritten:

45 "(g) At the sentencing hearing, the prosecuting attorney shall submit to the court a copy
46 of a form containing the ~~identifying~~ information set forth in G.S. 15A-831(c) ~~about any and~~
47 subsection (b) of this section, including the victim's ~~electing election~~ to receive further notices
48 under this Article. The clerk of superior court shall include the form with the final judgment and
49 commitment, or judgment suspending sentence, transmitted to the Division of Adult Correction
50 and Juvenile Justice of the Department of Public Safety or other agency receiving custody of the

1 ~~defendant and shall be maintained by the defendant. The clerk and custodial agency shall~~
2 ~~maintain the form as a confidential file record."~~

3 **SECTION 6.(n)** G.S. 15A-832.1(b) reads as rewritten:

4 "(b) A judicial official issuing a pleading for any misdemeanor offense against the person
5 based on testimony or evidence from a complaining witness rather than from a law enforcement
6 officer shall deliver the court's copy of the warrant and the victim-identifying information to the
7 office of the clerk of superior court by the close of the next business day. Within 72 hours, the
8 office of the clerk of superior court shall forward to the district attorney's office a copy of the
9 victim-identifying information set forth in subsection (a) of this section. The clerk shall maintain
10 the clerk's copy of the form as a confidential record."

11 **SECTION 6.(o)** G.S. 122C-54(b) reads as rewritten:

12 "(b) If an individual is a defendant in a criminal case and a mental examination of the
13 defendant has been ordered by the court as provided in G.S. 15A-1002, the facility shall send the
14 ~~results or the report of the mental examination to the clerk of court, to the district attorney or~~
15 ~~prosecuting officer, and to the attorney of record for the defendant court,~~ as provided in
16 G.S. 15A-1002(d). The report shall contain a treatment recommendation, if any, and an opinion
17 as to whether there is a likelihood that the defendant will gain the capacity to proceed. The facility
18 also shall provide to the clerk a separate covering statement containing the examiner's conclusion
19 as to whether the defendant has or lacks the capacity to proceed."

20 **SECTION 6.(p)** G.S. 15A-1340.14(f) reads as rewritten:

21 "(f) Proof of Prior Convictions. – A prior conviction shall be proved by any of the
22 following methods:

23 ...

24 The State bears the burden of proving, by a preponderance of the evidence, that a prior
25 conviction exists and that the offender before the court is the same person as the offender named
26 in the prior conviction. The original or a copy of the court records or a copy of the records
27 maintained by the Department of Public Safety, the Division of Motor Vehicles, or of the
28 Administrative Office of the Courts, bearing the same name as that by which the offender is
29 charged, is prima facie evidence that the offender named is the same person as the offender before
30 the court, and that the facts set out in the record are true. For purposes of this subsection, ~~"a copy"~~
31 ~~includes~~ "copy" includes, in addition to copies as defined in G.S. 15A-101.1, a paper writing
32 containing a reproduction of a record maintained electronically on a computer or other data
33 processing equipment, and a document produced by a facsimile machine. The prosecutor shall
34 make all feasible efforts to obtain and present to the court the offender's full record. Evidence
35 presented by either party at trial may be utilized to prove prior convictions. Suppression of prior
36 convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that section during the
37 sentencing stage of the criminal action, the court may grant a continuance of the sentencing
38 hearing. If asked by the defendant in compliance with G.S. 15A-903, the prosecutor shall furnish
39 the defendant's prior criminal record to the defendant within a reasonable time sufficient to allow
40 the defendant to determine if the record available to the prosecutor is accurate. Upon request of
41 a sentencing services program established pursuant to Article 61 of Chapter 7A of the General
42 Statutes, the district attorney shall provide any information the district attorney has about the
43 criminal record of a person for whom the program has been requested to provide a sentencing
44 plan pursuant to G.S. 7A-773.1."

45 **SECTION 6.(q)** G.S. 15A-1340.21(c) reads as rewritten:

46 "(c) Proof of Prior Convictions. – A prior conviction shall be proved by any of the
47 following methods:

48 ...

49 The State bears the burden of proving, by a preponderance of the evidence, that a prior
50 conviction exists and that the offender before the court is the same person as the offender named
51 in the prior conviction. The original or a copy of the court records or a copy of the records

1 maintained by the Department of Public Safety, the Division of Motor Vehicles, or of the
2 Administrative Office of the Courts, bearing the same name as that by which the offender is
3 charged, is prima facie evidence that the offender named is the same person as the offender before
4 the court, and that the facts set out in the record are true. For purposes of this subsection, "copy"
5 ~~includes~~ includes, in addition to copies as defined in G.S. 15A-101.1, a paper writing containing
6 a reproduction of a record maintained electronically on a computer or other data processing
7 equipment, and a document produced by a facsimile machine. Evidence presented by either party
8 at trial may be utilized to prove prior convictions. Suppression of prior convictions is pursuant
9 to G.S. 15A-980. If a motion is made pursuant to that section during the sentencing stage of the
10 criminal action, the court may grant a continuance of the sentencing hearing."

11 **SECTION 6.(r)** G.S. 15A-1382 is amended by adding a new subsection to read:

12 "(c) In lieu of the form described in subsections (a) and (b) of this section, the report of
13 the disposition may be made by electronic transmission from the courts' recordkeeping
14 applications to the State Bureau of Investigation in any format mutually agreed upon by the State
15 Bureau of Investigation and the Administrative Office of the Courts."

16 **SECTION 6.(s)** G.S. 15A-1382.1 reads as rewritten:

17 **"§ 15A-1382.1. Reports of disposition; domestic violence; child abuse; sentencing.**

18 (a) When a defendant is found guilty of an offense involving assault, communicating a
19 threat, or any of the acts as defined in G.S. 50B-1(a), the presiding judge shall determine whether
20 the defendant and victim had a personal relationship. If the judge determines that there was a
21 personal relationship between the defendant and the victim, then the judge shall indicate on ~~the~~
22 ~~form reflecting~~ the judgment of conviction that the case involved domestic violence. The clerk
23 of court shall insure that the official record of the defendant's conviction includes the court's
24 determination, so that any inquiry into the defendant's criminal record will reflect that the offense
25 involved domestic violence.

26 (a1) When a defendant is found guilty of an offense involving child abuse or is found
27 guilty of an offense involving assault or any of the acts as defined in G.S. 50B-1(a) and the
28 offense was committed against a minor, then the judge shall indicate on ~~the form reflecting~~
29 the judgment of conviction that the case involved child abuse. The clerk of court shall ensure that
30 the official record of the defendant's conviction includes the court's determination, so that any
31 inquiry into the defendant's criminal record will reflect that the offense involved child abuse.

32"

33 **SECTION 6.(t)** G.S. 20-179.3(d) reads as rewritten:

34 "(d) Application for and Scheduling of Subsequent Hearing. – The application for a
35 limited driving privilege made at any time after the day of sentencing must be filed with the ~~clerk~~
36 ~~in duplicate, clerk,~~ and no hearing scheduled may be held until a reasonable time after the clerk
37 files a copy of the application with the district attorney's office. The hearing must be scheduled
38 before:

39 ...

40 If the applicant was convicted of an offense in another jurisdiction, the hearing must be
41 scheduled before the chief district court judge of the district court district as defined in
42 G.S. 7A-133 in which he resides. G.S. 20-16.2(e1) governs the judge before whom a hearing is
43 scheduled if the revocation was under G.S. 20-16.2(d). The hearing may be scheduled in any
44 county within the district court district as defined in G.S. 7A-133 or superior court district or set
45 of districts as defined in G.S. 7A-41.1, as the case may be."

46 **SECTION 6.(u)** Subsections (m) and (n) of this section become effective December
47 1, 2022. Subsection (o) of this section becomes effective December 1, 2022, and applies to
48 capacity evaluations ordered on or after that date. The remainder of this section is effective when
49 it becomes law.

50

DEPARTMENT OF ADULT CORRECTION SEPARATION TECHNICAL CORRECTION

SECTION 7.(a) G.S. 15A-1340.16(d), as amended by Section 19C.9.(tt) of S.L. 2021-180, reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

...

(6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Public Safety, ~~Safety~~ or the Department of Adult Correction, jailer, fireman, emergency medical technician, ambulance attendant, social worker, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

...."

SECTION 7.(b) This section becomes effective January 1, 2023, and applies to offenses committed on or after that date.

CONFORMING CHANGE FOR THE DEPARTMENT OF ADULT CORRECTION

SECTION 8.(a) G.S. 15A-150(b) reads as rewritten:

"(b) Notification to Other State and Local Agencies. – Unless otherwise instructed by the Administrative Office of the Courts pursuant to an agreement entered into under subsection (e) of this section for the electronic or facsimile transmission of information, the clerk of superior court in each county in North Carolina shall send a certified copy of an order granting an expunction to a person named in subsection (a) of this section to (i) all of the agencies listed in this subsection and (ii) the person granted the expunction. Expunctions granted pursuant to G.S. 15A-146(a4) are excluded from all clerk of superior court notice provisions of this subsection. An agency receiving an order under this subsection shall purge from its records all entries made as a result of the charge or conviction ordered expunged, except as provided in G.S. 15A-151. The list of agencies is as follows:

...

(4) The Department of ~~Public Safety~~, Adult Correction, Combined Records Section.

...."

SECTION 8.(b) This section becomes effective January 1, 2023.

FUNDS FOR COURT SYSTEM EDUCATION

SECTION 9.(a) There is appropriated from the General Fund to the Administrative Office of the Courts the sum of twenty thousand dollars (\$20,000) in nonrecurring funds for the 2022-2023 fiscal year to be used to educate court system staff and affected public stakeholders of the statutory changes made in this act.

SECTION 9.(b) This section becomes effective July 1, 2022.

SEVERABILITY CLAUSE

SECTION 10. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

SECTION 11. Except as otherwise provided, this act is effective when it becomes law.