

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 300
Judiciary Committee Substitute Adopted 5/5/21

Short Title: Criminal Justice Reform.

(Public)

Sponsors:

Referred to:

March 16, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE PROTECTIONS, TRAINING, AND OVERSIGHT FOR STATE
3 AND LOCAL LAW ENFORCEMENT OFFICERS; TO CREATE A DECERTIFICATION
4 DATABASE; TO REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S
5 NEXT GENERATION IDENTIFICATION SYSTEM AND RAP BACK SERVICE FOR
6 LAW ENFORCEMENT; TO REQUIRE REPORTING RELATED TO GIGLIO
7 MATERIAL; TO EXPAND TRANSPORTATION OF INVOLUNTARY COMMITMENT
8 RESPONDENTS; TO STANDARDIZE LAW ENFORCEMENT OFFICER ENTRY
9 REQUIREMENTS AND ONGOING REQUIREMENTS; TO REQUIRE
10 PSYCHOLOGICAL SCREENINGS OF LAW ENFORCEMENT OFFICERS PRIOR TO
11 CERTIFICATION OR EMPLOYMENT; TO EDUCATE LAW ENFORCEMENT
12 OFFICERS ON MAINTAINING GOOD MENTAL HEALTH, AND TO PROVIDE
13 INFORMATION TO LAW ENFORCEMENT OFFICERS ON MENTAL HEALTH
14 RESOURCES AVAILABLE; TO CREATE A PHYSICAL FITNESS STUDY; TO
15 EXPAND THE ADMINISTRATIVE OFFICE OF THE COURTS' COURT DATE
16 REMINDER SYSTEM; TO DECRIMINALIZE CERTAIN LOCAL ORDINANCES AND
17 PROVIDE COMPLIANCE AS A DEFENSE TO AN ORDINANCE VIOLATION; TO
18 INCREASE THE PUNISHMENT FOR RIOT OFFENSES; TO MANDATE
19 MISDEMEANOR FIRST APPEARANCES WHEN A DEFENDANT IS IN CUSTODY;
20 TO REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED
21 BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW
22 ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS
23 FOR CERTIFIED PERSONNEL; TO ESTABLISH A DUTY FOR LAW ENFORCEMENT
24 OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE; TO
25 ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING
26 RAISED IN STATE VERSUS GRADY AND CREATE A PROCESS TO REVIEW
27 WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED
28 FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE; AND TO
29 REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF
30 STATE AGENCY LICENSING BOARDS.

31 The General Assembly of North Carolina enacts:

32
33 **PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW**
34 **ENFORCEMENT DATABASE REGULATIONS**

35 **SECTION 1.(a)** Article 1 of Chapter 17C of the General Statutes is amended by
36 adding a new section to read:



1 **"§ 17C-14. Database of law enforcement officer certification suspensions and revocations.**
2 The Commission shall develop and maintain a statewide database accessible to the public on
3 its website that contains all revocations and suspensions of law enforcement officer certifications
4 by the Commission."

5 SECTION 1.(b) Chapter 17E of the General Statutes is amended by adding a new
6 section to read:

7 **"§ 17E-14. Database of justice officer certification suspensions and revocations.**

8 The Commission shall develop and maintain a statewide database accessible to the public on
9 its website that contains all revocations and suspensions of justice officer certifications by the
10 Commission."

11 SECTION 1.(c) This section becomes effective October 1, 2021.

12
13 **PART II. REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT**
14 **GENERATION IDENTIFICATION (NGI) SYSTEM AND RAP BACK SERVICE**

15 SECTION 2.(a) Article 13 of Chapter 143B of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 143B-972.1. Criminal record checks for North Carolina Criminal Justice Education and**
18 **Training Standards Commission and North Carolina Sheriffs' Education and**
19 **Training Standards Commission; fingerprints sent to Federal Bureau of**
20 **Investigation.**

21 (a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal
22 Justice Education and Training Standards Commission and the North Carolina Sheriffs'
23 Education and Training Standards Commission the criminal history of any person who applies
24 for certification or is certified, as a criminal justice officer or justice officer or any other position
25 that requires certification with either Commission, from the State and National Repositories of
26 Criminal Histories. Each agency employing a certified criminal justice officer or justice officer
27 shall provide to the SBI the fingerprints of certified officers, other identifying information
28 required by the State and National Repositories, and any additional information required by the
29 SBI.

30 (b) The SBI shall conduct a criminal history records check using the fingerprints of the
31 applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B.
32 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System
33 (SAFIS).

34 (c) In addition to searching the State's criminal history record file, the SBI shall forward
35 a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history
36 record check. The SBI shall enroll each individual whose fingerprints are received under this
37 section in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and
38 Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. The SBI
39 will also notify the certifying Commission of any subsequent arrest of an individual identified
40 through the Rap Back Service.

41 (d) Within 15 business days of receiving notification by either Commission that the
42 individual whose fingerprints have been stored in the State Automated Fingerprint Identification
43 System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or
44 separated from employment and an Affidavit of Separation has been filed with either
45 Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a
46 request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap
47 Back Service.

48 (e) The Commissions shall keep all information obtained pursuant to this section
49 confidential."

1 **SECTION 2.(b)** No later than June 30, 2023, all personnel certified by either
2 Commission shall have their fingerprints electronically submitted to the SBI for a state and
3 national criminal history check.

4 **SECTION 2.(c)** This section becomes effective January 1, 2023.

5
6 **PART III. CRITICAL INCIDENT STATEWIDE DATABASE**

7 **SECTION 3.(a)** G.S. 17C-2 reads as rewritten:

8 **"§ 17C-2. Definitions.**

9 Unless the context clearly otherwise requires, the following definitions apply in this Article:

10 ...

11 (3a) Critical incident. – An incident involving any use of force by a law
12 enforcement officer that results in death or serious bodily injury to a person.

13 "

14 **SECTION 3.(b)** Article 1 of Chapter 17C of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 17C-15. Database for law enforcement officer critical incident information.**

17 (a) The Division shall develop and maintain a statewide database for use by law
18 enforcement agencies that tracks all critical incident data of law enforcement officers in North
19 Carolina.

20 (b) All law enforcement agencies in the State that employ personnel certified by the
21 Commission shall provide any information requested by the Division to maintain the database
22 required by subsection (a) of this section.

23 (c) Information collected under this section that is confidential under State or federal law
24 shall remain confidential.

25 (d) A law enforcement officer who is reported to the Division as having been involved in
26 a critical incident who disputes being involved in a critical incident has a right, prior to being
27 placed in the database, to request a contested case hearing regarding that determination pursuant
28 to and in accordance with the provisions of Article 3 of Chapter 150B of the General Statutes."

29 **SECTION 3.(c)** G.S. 17E-2 reads as rewritten:

30 **"§ 17E-2. Definitions.**

31 Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

32 ...

33 (4) "Critical incident" means an incident involving any use of force by a law
34 enforcement officer that results in death or serious bodily injury to a person."

35 **SECTION 3.(d)** Chapter 17E of the General Statutes is amended by adding a new
36 section to read:

37 **"§ 17E-15. Database for justice officer critical incident information.**

38 (a) The Division shall develop and maintain a statewide database for use by law
39 enforcement agencies that tracks all critical incident data of justice officers in North Carolina.

40 (b) All law enforcement agencies in the State that employ personnel certified by the
41 Commission shall provide any information requested by the Commission to maintain the
42 database required by subsection (a) of this section.

43 (c) Information collected under this section that is confidential under State or federal law
44 shall remain confidential.

45 (d) A justice officer who is reported to the Division as having been involved in a critical
46 incident who disputes being involved in a critical incident has a right, prior to being placed in the
47 database, to request a contested case hearing regarding that determination pursuant to and in
48 accordance with the provisions of Article 3 of Chapter 150B of the General Statutes."

49 **SECTION 3.(e)** This section becomes effective October 1, 2021, and applies to
50 critical incidents on or after that date.

PART IV. REPORT REQUIREMENT RELATED TO GIGLIO MATERIAL

SECTION 4.(a) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-16. Requirement to report material relevant to testimony.

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Criminal Justice Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

(1) 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.

(2) In open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that the person may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that the person may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that the person may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Article 3 of Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in a court of competent

1 jurisdiction for a judicial determination of whether or not the person received a notification that
2 the person may not be called to testify at trial based on bias, interest, or lack of credibility. This
3 hearing is limited to reviewing whether (i) a person who is certified by the Commission or has
4 received a conditional offer of employment, (ii) has been notified in writing by a superior court
5 judge, district court judge, federal judge, district attorney, assistant district attorney, United States
6 attorney, or assistant United States attorney; or notified in open court by a superior court judge,
7 district court judge, or federal judge, and documented in a written order, and (iii) that notification
8 states that the person may not be called to testify at trial based on bias, interest, or lack of
9 credibility, not matters of law or admissibility. The person must provide notice of the hearing to
10 the Division. One extension of 15 days will be added to the 30-day reporting requirement
11 provided in subsection (a) of this section if notice of a hearing is received."

12 **SECTION 4.(b)** Chapter 17E of the General Statutes is amended by adding a new
13 section to read:

14 **"§ 17E-16. Requirement to report material relevant to testimony.**

15 (a) Any person who is certified by the Commission or has received a conditional offer of
16 employment and who has been notified that the person may not be called to testify at trial based
17 on bias, interest, or lack of credibility shall report and provide a copy of that notification to the
18 Justice Officers' Standards Division within 30 days of receiving the notification, except as
19 provided in subsection (h) of this section. This requirement shall only apply if the person is
20 notified by one of the following methods:

21 (1) In writing by a superior court judge, district court judge, federal judge, district
22 attorney, assistant district attorney, United States attorney, or assistant United
23 States attorney.

24 (2) In open court by a superior court judge, district court judge, or federal judge
25 and documented in a written order.

26 (b) The report to the Division shall be in writing and shall state who notified the person
27 that the person may not be called to testify at trial. A person required to report to the Division
28 under subsection (a) of this section shall make the same report to the person's agency head within
29 30 days of being notified that the person may not be called to testify at trial. An agency head who
30 receives a report that a person in the agency has been notified that the person may not be called
31 to testify at trial shall also report the notification to the Division in writing within 30 days of the
32 agency head's receipt of that report.

33 (c) A superior court judge, district court judge, federal judge, district attorney, assistant
34 district attorney, United States attorney, or assistant United States attorney who notifies a person
35 that the person may not be called to testify at trial as provided in subsection (a) of this section
36 shall report that notification to the Division and provide a copy of the written document or order
37 within 30 days of notifying the person that the person may not be called to testify at trial.

38 (d) If the Division transfers to another agency the certification of any person required to
39 report to the Division pursuant to subsection (a) of this section, the Division shall provide written
40 notification to both the head of the new agency and the elected district attorney in the
41 prosecutorial district where the agency is located that the person has been previously notified that
42 the person may not be called to testify at trial. If the new agency receiving notification pursuant
43 to this subsection is a State agency, the Division shall notify the elected district attorney in every
44 prosecutorial district of the State.

45 (e) If any person required to report to the Division pursuant to subsection (a) of this
46 section is subsequently informed in writing that that the notification has been rescinded, the
47 person shall provide the Division a copy of that document. The provisions of subsection (d) of
48 this section do not apply if the person required to report pursuant to subsection (a) of this section
49 is subsequently informed in writing that the notification has been rescinded.

50 (f) No later than March 1 each year, the Commission shall report to the Joint Legislative
51 Oversight Committee on Justice and Public Safety regarding the number of individuals for whom

1 the Division received a report required by subsection (a) of this section during the previous
2 calendar year. The report shall include information for each case on whether a final agency
3 decision has been entered and what action, if any, has been taken against each certification. The
4 report shall not include the name or any other identifying information of any person required to
5 report pursuant to subsection (a) of this section.

6 (g) The reports and notifications received by the Division pursuant to this section shall
7 not be public record.

8 (h) Any person who has received a notification that may meet the reporting requirement
9 provided in subsection (a) of this section may apply for a hearing in a court of competent
10 jurisdiction for a judicial determination of whether or not the person received a notification that
11 the person may not be called to testify at trial based on bias, interest, or lack of credibility. This
12 hearing is limited to reviewing whether (i) a person who is certified by the Commission or has
13 received a conditional offer of employment, (ii) has been notified in writing by a superior court
14 judge, district court judge, federal judge, district attorney, assistant district attorney, United States
15 attorney, or assistant United States attorney; or notified in open court by a superior court judge,
16 district court judge, or federal judge, and documented in a written order, and (iii) that notification
17 states that the person may not be called to testify at trial based on bias, interest, or lack of
18 credibility, not matters of law or admissibility. The person must provide notice of the hearing to
19 the Division. One extension of 15 days will be added to the 30-day reporting requirement
20 provided in subsection (a) of this section, if notice of a hearing is received."

21 **SECTION 4.(c)** This section becomes effective October 1, 2021, and applies to
22 notifications received prior to, on, or after that date by persons required to report pursuant to this
23 act.

24 25 **PART V. REQUIRE CERTAIN MINIMUM LAW ENFORCEMENT OFFICER** 26 **STANDARDS**

27 **SECTION 5.(a)** The Criminal Justice Education and Training Standards
28 Commission and the Sheriffs' Education and Training Standards Commission shall jointly
29 develop uniform, statewide minimum standards for law enforcement officers and justice officers
30 and adopt these standards as rules.

31 **SECTION 5.(b)** Each Commission shall report the standards developed pursuant to
32 subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public
33 Safety no later than December 31, 2021.

34 **SECTION 5.(c)** Each Commission may adopt temporary rules under G.S. 150B-21.1
35 to comply with this section and shall adopt permanent rules to comply with this section by
36 December 31, 2022.

37 38 **PART VI. TRANSPORTATION OF INVOLUNTARY COMMITMENT** 39 **RESPONDENTS**

40 **SECTION 6.(a)** G.S. 122C-251(f) reads as rewritten:

41 "(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk,
42 a magistrate, or a district court judge, where applicable, may authorize either a health care
43 provider of the respondent or the family or immediate friends of the respondent, if they so request,
44 to transport the respondent in accordance with the procedures of this Article. This authorization
45 shall only be granted in cases where the danger to the public, the health care provider of the
46 respondent, the family or friends of the respondent, or the respondent himself or herself is not
47 substantial. The health care provider of the respondent or the family or immediate friends of the
48 respondent shall bear the costs of providing this transportation."

49 **SECTION 6.(b)** This section becomes effective October 1, 2021, and applies to
50 custody orders issued on or after that date.

1 **PART VII. LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS, ONGOING**
2 **REQUIREMENTS, AND CREATE A PHYSICAL FITNESS STUDY**

3 **SECTION 7.(a)** G.S. 17C-6(a) reads as rewritten:

4 "(a) In addition to powers conferred upon the Commission elsewhere in this Article, the
5 Commission shall have the following powers, which shall be enforceable through its rules and
6 regulations, certification procedures, or the provisions of G.S. 17C-10:

7 ...

8 (2) Establish minimum educational and training standards that must be met in
9 order to qualify for entry level employment and retention as a criminal justice
10 officer in temporary or probationary status or in a permanent position. The
11 standards for entry level employment shall include all of the following:

12 ...

13 c. Education and training to develop knowledge and increase awareness
14 of effective mental health and wellness strategies for criminal justice
15 officers.

16 ...

17 (14) Establish minimum standards for in-service training for criminal justice
18 officers. In-service training standards shall include all of the following:

19 ...

20 c. Training to develop knowledge and increase awareness of effective
21 mental health and wellness strategies for criminal justice officers. The
22 standards established shall include two hours of training on this issue
23 every three years.

24"

25 **SECTION 7.(b)** G.S. 17E-4(a) reads as rewritten:

26 "(a) The Commission shall have the following powers, duties, and responsibilities, which
27 are enforceable through its rules and regulations, certification procedures, or the provisions of
28 G.S. 17E-8 and G.S. 17E-9:

29 ...

30 (2) Establish minimum educational and training standards that may be met in
31 order to qualify for entry level employment as an officer in temporary or
32 probationary status or in a permanent position. The standards for entry level
33 employment of officers shall include all of the following:

34 ...

35 c. Education and training to develop knowledge and increase awareness
36 of effective mental health and wellness strategies for justice officers.

37 ...

38 (11) Establish minimum standards for in-service training for justice officers.
39 In-service training standards shall include all of the following:

40 ...

41 c. Training to develop knowledge and increase awareness of effective
42 mental health and wellness strategies for justice officers. The
43 standards established shall include two hours of training on this issue
44 every three years.

45"

46 **SECTION 7.(c)** G.S. 17C-10(c) reads as rewritten:

47 "(c) In addition to the requirements of subsection (b) of this section, the Commission, by
48 rules and regulations, shall fix other qualifications for the employment, training, and retention of
49 criminal justice officers including minimum age, education, physical and mental standards,
50 citizenship, good moral character, experience, and such other matters as relate to the competence
51 and reliability of persons to assume and discharge the responsibilities of criminal justice officers;

1 ~~and the officers. The Commission shall prescribe the means for presenting evidence of fulfillment~~
2 ~~of these requirements. The Commission shall require the administration of a psychological~~
3 ~~screening examination, including a face-to-face interview conducted by a licensed psychologist,~~
4 ~~to determine the criminal justice officer's psychological suitability to properly fulfill the~~
5 ~~responsibilities of the criminal justice officer. The psychological screening examination shall be~~
6 ~~given (i) prior to the initial certification and (ii) before the criminal justice officer is employed~~
7 ~~by an agency.~~

8 Where minimum educational standards are not met, yet the individual shows potential and a
9 willingness to achieve the standards by extra study, they may be waived by the Commission for
10 the reasonable amount of time it will take to achieve the standards required. Such an educational
11 waiver shall not exceed 12 months."

12 **SECTION 7.(d)** G.S. 17E-7(c) reads as rewritten:

13 "(c) In addition to the requirements of subsection (b) of this section, the Commission, by
14 rules and regulations, may fix other qualifications for the employment and retention of justice
15 officers including minimum age, education, physical and mental standards, citizenship, good
16 moral character, experience, and such other matters as relate to the competence and reliability of
17 persons to assume and discharge the responsibilities of the ~~office, and the office.~~ The
18 Commission shall prescribe the means for presenting evidence of fulfillment of these
19 requirements. The Commission shall require the administration of a psychological screening
20 examination, including a face-to-face interview conducted by a licensed psychologist, to
21 determine the justice officer's psychological suitability to properly fulfill the responsibilities of
22 the office. The psychological screening examination shall be given (i) prior to the initial
23 certification and (ii) before the justice officer is employed by an agency.

24 Where minimum educational standards are not met, yet the individual shows potential and a
25 willingness to achieve the standards by extra study, they may be waived by the Commission for
26 the reasonable amount of time it will take to achieve the standards required. Upon petition from
27 a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any
28 justice officer serving that sheriff."

29 **SECTION 7.(e)** In developing the standards and training required by subsections (a)
30 and (b) of this section, the North Carolina Criminal Justice Education and Training Standards
31 Commission and the North Carolina Sheriffs' Education and Training Standards Commission are
32 encouraged to adopt standards that provide training conducted by mental health professionals
33 and through face-to-face instruction.

34 **SECTION 7.(f)** The North Carolina Criminal Justice Education and Training
35 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
36 Commission shall regularly provide information on any statewide mental health resources
37 specifically available to criminal justice officers or justice officers to all criminal justice agencies
38 or departments in the State that employ officers certified by either Commission.

39 **SECTION 7.(g)** All criminal justice agencies or departments in the State that employ
40 criminal justice officers certified by the North Carolina Criminal Justice Education and Training
41 Standards Commission or justice officers certified by the North Carolina Sheriffs' Education and
42 Training Standards Commission shall coordinate with the appropriate local management
43 entity/managed care organization (LME/MCO) or prepaid health plan, as defined under
44 G.S. 108D-1, to make information on State and local mental health resources and programs easily
45 available to all employees and develop policies to encourage employees to utilize the resources
46 available.

47 **SECTION 7.(h)** The North Carolina Criminal Justice Education and Training
48 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
49 Commission shall jointly study the benefits, if any, of requiring physical fitness testing
50 throughout the career of a law enforcement officer, and shall also study whether that testing, if
51 required, should be incrementally adjusted based upon the age of the law enforcement officer,

1 and report to the Joint Legislative Oversight Committee on Justice and Public Safety no later
2 than March 31, 2022.

3 **SECTION 7.(i)** The North Carolina Criminal Justice Education and Training
4 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
5 Commission shall implement the requirements of subsections (a) through (d) of this section no
6 later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply
7 to certifications issued and employees entering employment on or after the implementation date
8 of those requirements.

9 **SECTION 7.(j)** Subsections (a) through (d) of this section become effective January
10 1, 2022, and apply to applications for law enforcement certification filed on or after that date.
11 The remainder of this section is effective when it becomes law.

12 **PART VIII. DEVELOPMENT OF EARLY WARNING SYSTEMS**

13 **SECTION 8.(a)** Chapter 17A of the General Statutes is amended by adding a new
14 section to read:

15 **"§ 17A-10. Development of law enforcement early warning system.**

16 (a) Every agency in the State that employs personnel certified by the North Carolina
17 Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs'
18 Education and Training Standards Commission shall develop and implement an early warning
19 system to document and track the actions and behaviors of law enforcement officers for the
20 purpose of intervening and improving performance. The early warning system required by this
21 section shall include information, at a minimum, regarding the following:

22 (1) Instances of the discharge of a firearm.

23 (2) Instances of use of force.

24 (3) Vehicle collisions.

25 (4) Citizen complaints.

26 (b) Information collected under this section that is confidential under State or federal law
27 shall remain confidential.

28 (c) For purposes of this section, "law enforcement officer" means any sworn law
29 enforcement officers with the power of arrest, both State and local."

30 **SECTION 8.(b)** This section becomes effective December 1, 2021, and applies to
31 actions and behaviors on or after that date.
32

33 **PART IX. LAW ENFORCEMENT AGENCY BEST PRACTICES RECRUITING GUIDE**

34 **SECTION 9.(a)** The North Carolina Criminal Justice Education and Training
35 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
36 Commission shall jointly develop a best practices guide to help law enforcement agencies recruit
37 and retain a diverse workforce.

38 **SECTION 9.(b)** The North Carolina Criminal Justice Education and Training
39 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
40 Commission shall report to the Joint Legislative Oversight Committee on Justice and Public
41 Safety no later than April 1, 2022, regarding the best practices guide required by subsection (a)
42 of this section.
43

44 **PART X. INVESTIGATIONS OF OFFICER-INVOLVED SHOOTINGS**

45 **SECTION 10.(a)** G.S. 143B-919 is amended by adding a new subsection to read:

46 "(b1) The Bureau shall, upon request of the Governor or a sheriff, chief of police, head of
47 a State law enforcement agency, district attorney, or the Commissioner of Prisons, investigate
48 and prepare evidence in the event of any of the following:
49

(1) A sworn law enforcement officer with the power to arrest uses force against an individual in the performance of the officer's duties that results in the death of, or serious bodily injury to, the individual.

(2) An individual in the custody of the Department of Public Safety, a State prison, a county jail, or a local confinement facility, regardless of the physical location of the individual, dies or suffers serious bodily injury.

"Serious bodily injury" as used in this subsection is 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."

SECTION 10.(b) This section becomes effective October 1, 2021.

PART XI. MANDATORY IN-SERVICE TRAINING FOR LAW ENFORCEMENT OFFICERS

SECTION 11.(a) G.S. 17C-6(a), as amended by Section 7 of this act, reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:

a. ~~Training in response~~Response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.

b. ~~Training on juvenile~~Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

c. Ethics.

d. Mental health for criminal justice officers.

e. Community policing.

f. Minority sensitivity.

g. Use of force.

h. The duty to intervene and report.

...."

SECTION 11.(b) G.S. 17E-4(a), as amended by Section 7 of this act, reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(11) Establish minimum standards for in-service training for justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:

a. ~~Training in response~~Response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in

G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.

b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

c. Ethics.

d. Mental health for justice officers.

e. Community policing.

f. Minority sensitivity.

g. Use of force.

h. The duty to intervene and report.

...."

SECTION 11.(c) This section becomes effective January 1, 2022.

PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING STANDARDS FROM RULEMAKING

SECTION 12.(a) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(6a) The Criminal Justice Education and Training Standards Commission with respect to establishing minimum standards for in-service training for criminal justice officers under G.S. 17C-6(a)(14).

(6b) The Sheriffs' Education and Training Standards Commission with respect to establishing minimum standards for in-service training for justice officers under G.S. 17E-4(a)(11).

...."

SECTION 12.(b) This section is effective when it becomes law.

PART XIII. UTILIZE TECHNOLOGY TO LIMIT FAILURES TO APPEAR IN COURT

SECTION 13.(a) The Administrative Office of the Courts shall automatically enroll all criminal defendants into its court date reminder system. A criminal defendant shall be allowed to opt out of this automatic enrollment by using processes developed by the Administrative Office of the Courts. The processes that allow a criminal defendant to opt out of this automatic enrollment shall be developed and implemented no later than December 1, 2021.

SECTION 13.(b) This section becomes effective December 1, 2021, and applies to criminal defendants arrested on or after that date.

PART XIV. DECRIMINALIZATION OF CERTAIN ORDINANCES

SECTION 14.(a) G.S. 153A-123 reads as rewritten:

"§ 153A-123. **Enforcement of ordinances.**

...

(b) ~~Unless the board of commissioners has provided otherwise, Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance is may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the county specifies such in the ordinance.~~ An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45,

1 no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first
 2 introduced.

3 (b1) No ordinance of the following types may impose a criminal penalty:

- 4 (1) Any ordinance adopted under Article 18 of this Chapter, Planning and
 5 Regulation of Development or, its successor, Chapter 160D of the General
 6 Statutes, except for those ordinances related to unsafe buildings.
- 7 (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing
 8 businesses, trades, etc.
- 9 (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile
 10 homes, house trailers, etc.
- 11 (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing
 12 programs.
- 13 (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor
 14 advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- 15 (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating
 16 solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- 17 (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating
 18 cisterns and rain barrels.
- 19 (8) Any ordinance regulating trees.

20"

21 SECTION 14.(b) G.S. 160A-175 reads as rewritten:

22 "§ 160A-175. Enforcement of ordinances.

23 ...

24 (b) ~~Unless the Council shall otherwise provide, Except for the types of ordinances listed~~
 25 ~~in subsection (b1) of this section, violation of a city ordinance is~~ may be a misdemeanor or
 26 ~~infraction as provided by G.S. 14-4.~~ G.S. 14-4 only if the city specifies such in the ordinance. An
 27 ordinance may provide by express statement that the maximum fine, term of imprisonment, or
 28 infraction penalty to be imposed for a violation is some amount of money or number of days less
 29 than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance
 30 specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

31 (b1) No ordinance of the following types may impose a criminal penalty:

- 32 (1) Any ordinance adopted under Article 19 of this Chapter, Planning and
 33 Regulation of Development, or its successor, Chapter 160D of the General
 34 Statutes, except for those ordinances related to unsafe buildings.
- 35 (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing
 36 programs.
- 37 (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing
 38 businesses, trades, etc.
- 39 (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor
 40 advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- 41 (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating
 42 solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- 43 (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating
 44 cisterns and rain barrels.
- 45 (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- 46 (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- 47 (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- 48 (10) Any ordinance regulating trees.

49"

50 SECTION 14.(c) G.S. 14-4 reads as rewritten:

51 "§ 14-4. Violation of local ordinances misdemeanor.

1 (a) Except as provided in ~~subsection (b)~~, this section, if any person shall violate an
2 ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of
3 Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five
4 hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance
5 expressly states that the maximum fine is greater than fifty dollars (\$50.00).

6 (b) If any person shall violate an ordinance of a county, city, or town regulating the
7 operation or parking of vehicles, he shall be responsible for an infraction and shall be required to
8 pay a penalty of not more than fifty dollars (\$50.00).

9 (c) A person may not be found responsible or guilty of a local ordinance violation if,
10 when tried for that violation, the person produces proof of compliance with the local ordinance
11 through any of the following:

12 (1) No new alleged violations of the local ordinance within 30 days from the date
13 of the initial alleged violation.

14 (2) The person provides proof of a good-faith effort to seek assistance to address
15 any underlying factors related to unemployment, homelessness, mental health,
16 or substance abuse that might relate to the person's ability to comply with the
17 local ordinance."

18 **SECTION 14.(d)** This section becomes effective December 1, 2021, and applies to
19 offenses and violations committed on or after that date.

20 **PART XV. INCREASE THE PUNISHMENT FOR RIOT OFFENSES**

21 **SECTION 15.(a)** G.S. 14-288.2 reads as rewritten:

22 **"§ 14-288.2. Riot; inciting to riot; punishments.**

23 (a) A riot is a public disturbance involving an assemblage of three or more persons which
24 by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct,
25 results in injury or damage to persons or property or creates a clear and present danger of injury
26 or damage to persons or property.

27 (b) Any person who willfully engages in a riot is guilty of a Class 1 misdemeanor.

28 (c) Any person who willfully engages in a riot is guilty of a Class ~~H-G~~ felony, if:

29 (1) ~~In the course and as a result of the riot there is if in the course of the riot, the~~
30 ~~person causes property damage in excess of fifteen hundred dollars (\$1,500)~~
31 ~~or serious bodily injury; or (\$1,500).~~

32 (c1) Any person who willfully engages in a riot is guilty of a Class F felony if one of the
33 following applies:

34 (1) In the course of the riot, the person causes serious bodily injury to another.

35 (2) ~~Such participant in the riot has in his possession any~~ In the course of the riot,
36 the person brandishes a dangerous weapon or uses a dangerous substance.

37 (d) Any person who willfully incites or urges another to engage in a riot, so that as a
38 result of such inciting or urging a riot occurs or a clear and present danger of a riot is created, is
39 guilty of a Class 1 misdemeanor.

40 (e) Any person who willfully incites or urges another to engage in a riot, and such inciting
41 or urging is a contributing cause of a riot in which there is property damage in excess of fifteen
42 hundred dollars (\$1,500) or serious bodily injury, shall be punished as a Class F felon.

43 (f) For the purposes of this section, "dangerous substance" may include, but is not limited
44 to, tear gas or pepper spray.

45 (g) Mere presence alone without an overt act is not sufficient to sustain a conviction
46 pursuant to this section."

47 **SECTION 15.(b)** This section becomes effective December 1, 2021, and applies to
48 offenses committed on or after that date.

1 **PART XVI. REQUIRE MANDATORY FIRST APPEARANCE FOR MISDEMEANORS**
2 **WHEN DEFENDANT IS IN CUSTODY AND REQUIRE FIRST APPEARANCE FOR**
3 **ALL CHARGES WHEN DEFENDANT IS IN CUSTODY TO BE HELD WITHIN**
4 **SEVENTY-TWO HOURS**

5 SECTION 16.(a) G.S. 15A-601 reads as rewritten:

6 "**§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases~~**
7 **~~in original jurisdiction of superior court; consolidation of first appearance~~**
8 **~~before magistrate and before district court judge; first appearance before clerk~~**
9 **~~of superior court; use of two-way audio and video transmission.~~**

10 (a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal
11 process under Article 17 of this Chapter, Criminal Process, with a crime in the original
12 jurisdiction of the superior court must be brought before a district court judge in the district court
13 district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This
14 first appearance before a district court judge is not a critical stage of the proceedings against the
15 defendant.

16 Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under
17 Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held in custody
18 must be brought before a district court judge in the district court district as defined in G.S. 7A-133
19 in which the crime is charged to have been committed. This first appearance before a district
20 court judge is not a critical stage of the proceedings against the defendant.

21 ...

22 (b) When a district court judge conducts an initial appearance as provided in
23 G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this
24 Article.

25 (c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first
26 appearance before a district court judge must be held within ~~96-72~~ hours after the defendant is
27 taken into custody or at the first regular session of the district court in the county, whichever
28 occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this
29 Chapter, Bail, within ~~96-72~~ hours after being taken into custody, first appearance must be held at
30 the next session of district court held in the county. This subsection does not apply to a defendant
31 whose first appearance before a district court judge has been set in a criminal summons pursuant
32 to G.S. 15A-303(d).

33 ...

34 (e) The clerk of the superior court in the county in which the defendant is taken into
35 custody may conduct a first appearance as provided in this Article if a district court judge is not
36 available in the county within ~~96-72~~ hours after the defendant is taken into custody. The clerk, in
37 conducting a first appearance, shall proceed under this Article as would a district court judge."

38 SECTION 16.(b) This section becomes effective December 1, 2021, and applies to
39 criminal processes served on or after that date.

40
41 **PART XVII. REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX**
42 **MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW**
43 **ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION**
44 **PROCESS FOR CERTIFIED PERSONNEL**

45 SECTION 17.(a) G.S. 17E-4(a) reads as rewritten:

46 "(a) The Commission shall have the following powers, duties, and responsibilities, which
47 are enforceable through its rules and regulations, certification procedures, or the provisions of
48 G.S. 17E-8 and G.S. 17E-9:

49 ...

50 (17) Search the National Decertification Index (NDI) maintained by the
51 International Association of Directors of Law Enforcement Standards and

1 Training (IADLEST) using the name of every applicant for certification or
2 applicant for lateral transfer, and any other personal identifying information
3 necessary to complete the search, and shall utilize any record of conviction of
4 a criminal offense received as a result of the search during the application and
5 lateral transfer process to determine if the applicant has any record that would
6 disqualify the applicant for certification.

7 "

8 **SECTION 17.(b)** G.S. 17C-6(a) reads as rewritten:

9 "(a) In addition to powers conferred upon the Commission elsewhere in this Article, the
10 Commission shall have the following powers, which shall be enforceable through its rules and
11 regulations, certification procedures, or the provisions of G.S. 17C-10:

12 ...

13 **(21)** Search the National Decertification Index (NDI) maintained by the
14 International Association of Directors of Law Enforcement Standards and
15 Training (IADLEST) using the name of every applicant for certification or
16 applicant for lateral transfer, and any other personal identifying information
17 necessary to complete the search, and shall utilize any record of conviction of
18 a criminal offense received as a result of the search during the application and
19 lateral transfer process to determine if the applicant has any record that would
20 disqualify the applicant for certification."

21 **SECTION 17.(c)** This section becomes effective October 1, 2021, and applies to
22 applications for certification submitted on or after that date.

23

24 **PART XVIII. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO**

25 **INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE**

26 **SECTION 18.(a)** G.S. 15A-401 is amended by adding a new subsection to read:

27 "**(d1)** Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer,
28 while in the line of duty, who observes another law enforcement officer use force against another
29 person that the observing officer reasonably believes exceeds the amount of force authorized by
30 subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall if it
31 is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the
32 observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter,
33 report what the officer reasonably believes to be an unauthorized use of force to a superior law
34 enforcement officer within the agency of the observing officer, even if the observing officer did
35 not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the
36 observing officer was involved or present during what the observing officer reasonably believes
37 to be unauthorized use of force, the observing officer shall make the report to the highest ranking
38 law enforcement officer of that officer's agency who was not involved in or present during the
39 use of force. The report under this subsection is required even if the observing officer did not
40 have a reasonable opportunity to intervene."

41 **SECTION 18.(b)** This section becomes effective December 1, 2021, and applies to
42 uses of force that occur on or after that date.

43

44 **PART XIX. REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE**

45 **LIST OF STATE AGENCY LICENSING BOARDS**

46 **SECTION 19.(a)** G.S. 93B-1(3)(e) is repealed.

47 **SECTION 19.(b)** This section becomes effective December 1, 2021.

48

49 **PART XX. ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED**

50 **MONITORING RAISED IN STATE V. GRADY AND CREATE A PROCESS TO**

51 **REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE**

1 **REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE**
2 **ELIGIBLE**

3 **SECTION 20.(a)** G.S. 14-208.6 reads as rewritten:

4 **"§ 14-208.6. Definitions.**

5 The following definitions apply in this Article:

6 ...

7 (2d) Predatory recidivist. – A person who has two or more convictions for sexually
8 violent offenses as described in G.S. 14-208.6(5).

9 ~~(2b)~~(2f) Recidivist. – A person who has a prior conviction for an offense that is
10 described in G.S. 14-208.6(4).

11 ...

12 (5) Sexually violent offense. – A violation of former G.S. 14-27.6 (attempted rape
13 or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22
14 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an
15 adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory
16 rape of a person who is 15 years of age or younger and where the defendant is
17 at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense),
18 G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28
19 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree
20 statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a
21 person who is 15 years of age or younger and where the defendant is at least
22 six years older), G.S. 14-27.31 (sexual activity by a substitute parent or
23 custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33
24 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is
25 committed against a minor who is less than 18 years of age or (ii) the offense
26 is committed against any person with the intent that they be held in sexual
27 servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual
28 servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6
29 (employing or permitting minor to assist in offenses against public morality
30 and decency), G.S. 14-190.9(a1) (felonious indecent exposure),
31 G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17
32 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree
33 sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with
34 children), G.S. 14-202.3 (Solicitation of child by computer or certain other
35 electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking
36 indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a
37 prostitute who is a minor or has a mental disability), G.S. 14-205.3(b)
38 (promoting prostitution of a minor or a person who has a mental disability),
39 G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution
40 with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual
41 act upon a juvenile by parent or ~~guardian~~-guardian), or an offense in another
42 state, which if committed in this State, is substantially similar to a sexually
43 violent offense as defined by this section. The term also includes the
44 following: a solicitation or conspiracy to commit any of these offenses; aiding
45 and abetting any of these offenses.

46"

47 **SECTION 20.(b)** G.S. 14-208.40 reads as rewritten:

48 **"§ 14-208.40. Establishment of program; creation of guidelines; duties.**

49 (a) The Division of Adult Correction and Juvenile Justice of the Department of Public
50 Safety shall establish a sex offender monitoring program that uses a continuous satellite-based

1 monitoring system and shall create guidelines to govern the program. The program shall be
2 designed to monitor three categories of offenders as follows:

3 (1) Any offender who is convicted of a reportable conviction as defined by
4 G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A
5 of Chapter 14 of the General Statutes because the defendant is classified as a
6 sexually violent predator, is a predatory recidivist, or was convicted of an
7 aggravated offense as those terms are defined in G.S. 14-208.6.

8 (2) Any offender who satisfies all of the following criteria: (i) is convicted of a
9 reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to
10 register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii)
11 has committed an offense involving the physical, mental, or sexual abuse of a
12 minor, and (iv) based on the Division of Adult Correction and Juvenile
13 Justice's risk assessment program requires the highest possible level of
14 supervision and monitoring.

15 (3) Any offender who is convicted of G.S. 14-27.23 or G.S. 14-27.28, who shall
16 be enrolled in the satellite-based monitoring program for the offender's natural
17 life upon termination of the offender's active punishment.

18 (b) In developing the guidelines for the program, the Division of Adult Correction and
19 Juvenile Justice shall require that any offender who is enrolled in the satellite-based program
20 submit to an active continuous satellite-based monitoring program, unless an active program will
21 not work as provided by this section. If the Division of Adult Correction and Juvenile Justice
22 determines that an active program will not work as provided by this section, then the Division of
23 Adult Correction and Juvenile Justice shall require that the defendant submit to a passive
24 continuous satellite-based program that works within the technological or geographical
25 limitations.

26 (c) The satellite-based monitoring program shall use a system that provides all of the
27 following:

28 (1) Time-correlated and continuous tracking of the geographic location of the
29 subject using a global positioning system based on satellite and other location
30 tracking technology.

31 (2) Reporting of subject's violations of prescriptive and proscriptive schedule or
32 location requirements. Frequency of reporting may range from once a day
33 (passive) to near real-time (active).

34 (d) The Division of Adult Correction and Juvenile Justice may contract with a single
35 vendor for the hardware services needed to monitor subject offenders and correlate their
36 movements to reported crime incidents. The contract may provide for services necessary to
37 implement or facilitate any of the provisions of this Part."

38 **SECTION 20.(c)** G.S. 14-208.40A reads as rewritten:

39 **"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

40 (a) When an offender is convicted of a reportable conviction as defined by
41 G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any
42 evidence that (i) the offender has been classified as a sexually violent predator pursuant to
43 G.S. 14-208.20, (ii) the offender is a predatory recidivist, (iii) the conviction offense was an
44 aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28,
45 or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney
46 shall have no discretion to withhold any evidence required to be submitted to the court pursuant
47 to this subsection.

48 The offender shall be allowed to present to the court any evidence that the district attorney's
49 evidence is not correct.

50 (b) After receipt of the evidence from the parties, the court shall determine whether the
51 offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a),

1 and if so, shall make a finding of fact of that determination, specifying whether (i) the offender
2 has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is
3 a predatory recidivist, (iii) the conviction offense was an aggravated offense, (iv) the conviction
4 offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the
5 physical, mental, or sexual abuse of a minor.

6 (c) If the court finds that the offender has been classified as a sexually violent predator,
7 is a predatory recidivist, has committed an aggravated offense, or was convicted of G.S. 14-27.23
8 or G.S. 14-27.28, the court shall order the offender to enroll in a satellite-based monitoring
9 program for life.

10 (d) If the court finds that the offender committed an offense that involved the physical,
11 mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of
12 G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a predatory recidivist, the court shall order
13 that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult
14 Correction and Juvenile Justice shall have a minimum of 30 days, but not more than 60 days, to
15 complete the risk assessment of the offender and report the results to the court.

16 (e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile
17 Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the
18 Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the
19 highest possible level of supervision and monitoring. If the court determines that the offender
20 does require the highest possible level of supervision and monitoring, the court shall order the
21 offender to enroll in a satellite-based monitoring program for a period of time to be specified by
22 the court."

23 **SECTION 20.(d)** G.S. 14-208.40B reads as rewritten:

24 "**§ 14-208.40B. Determination of satellite-based monitoring requirement in certain**
25 **circumstances.**

26 (a) When an offender is convicted of a reportable conviction as defined by
27 G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall
28 be required to enroll in satellite-based monitoring, the Division of Adult Correction and Juvenile
29 Justice shall make an initial determination on whether the offender falls into one of the categories
30 described in G.S. 14-208.40(a).

31 (b) If the Division of Adult Correction and Juvenile Justice determines that the offender
32 falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing
33 the Division of Adult Correction and Juvenile Justice, shall schedule a hearing in superior court
34 for the county in which the offender resides. The Division of Adult Correction and Juvenile
35 Justice shall notify the offender of the Division of Adult Correction and Juvenile Justice's
36 determination and the date of the scheduled hearing by certified mail sent to the address provided
37 by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days
38 from the date the notification is mailed. Receipt of notification shall be presumed to be the date
39 indicated by the certified mail receipt. Upon the court's determination that the offender is indigent
40 and entitled to counsel, the court shall assign counsel to represent the offender at the hearing
41 pursuant to rules adopted by the Office of Indigent Defense Services.

42 (c) At the hearing, the court shall determine if the offender falls into one of the categories
43 described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact
44 pursuant to G.S. 14-208.40A.

45 If the court finds that (i) the offender has been classified as a sexually violent predator
46 pursuant to G.S. 14-208.20, (ii) the offender is a predatory recidivist, (iii) the conviction offense
47 was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or
48 G.S. 14-27.28, the court shall order the offender to enroll in satellite-based monitoring for life.

49 If the court finds that the offender committed an offense that involved the physical, mental,
50 or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of
51 G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a predatory recidivist, the court shall

1 order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the
2 offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30
3 days, but not more than 60 days, to complete the risk assessment of the offender and report the
4 results to the court. The Division of Adult Correction and Juvenile Justice may use a risk
5 assessment of the offender done within six months of the date of the hearing.

6 Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice,
7 the court shall determine whether, based on the Division of Adult Correction and Juvenile
8 Justice's risk assessment, the offender requires the highest possible level of supervision and
9 monitoring. If the court determines that the offender does require the highest possible level of
10 supervision and monitoring, the court shall order the offender to enroll in a satellite-based
11 monitoring program for a period of time to be specified by the court."

12 **SECTION 20.(e)** G.S. 14-208.43 reads as rewritten:

13 **"§ 14-208.43. Request-Petition for termination or modification of the satellite-based**
14 **monitoring requirement.**

15 (a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is
16 required to submit to satellite-based monitoring for the offender's life may file a request-petition
17 for termination or modification of the monitoring requirement with the Post-Release Supervision
18 and Parole Commission-superior court, 10 years from the date of initial enrollment if the person
19 has not committed a subsequent offense requiring enrollment in the satellite-based monitoring
20 program under this Article or the laws of any other jurisdiction. The request to terminate the
21 satellite-based monitoring requirement and to terminate the accompanying requirement of
22 unsupervised probation may not be submitted until at least one year after the offender: (i) has
23 served his or her sentence for the offense for which the satellite-based monitoring requirement
24 was imposed, and (ii) has also completed any period of probation, parole, or post-release
25 supervision imposed as part of the sentence.

26 (b) ~~Upon receipt of the request for termination, the Commission shall review~~
27 ~~documentation contained in the offender's file and the statewide registry to determine whether~~
28 ~~the person has complied with the provisions of this Article. In addition, the Commission shall~~
29 ~~conduct fingerprint-based state and federal criminal history record checks to determine whether~~
30 ~~the person has been convicted of any additional reportable convictions.~~

31 (c) ~~If it is determined that the person has not received any additional reportable~~
32 ~~convictions during the period of satellite-based monitoring and the person has substantially~~
33 ~~complied with the provisions of this Article, the Commission may terminate the monitoring~~
34 ~~requirement if the Commission finds that the person is not likely to pose a threat to the safety of~~
35 ~~others.~~

36 (d) ~~If it is determined that the person has received any additional reportable convictions~~
37 ~~during the period of satellite-based monitoring or has not substantially complied with the~~
38 ~~provisions of this Article, the Commission shall not order the termination of the monitoring~~
39 ~~requirement.~~

40 (d1) ~~Notwithstanding the provisions of this section, if the Commission is notified by the~~
41 ~~Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the~~
42 ~~offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under~~
43 ~~Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order~~
44 ~~the termination of the monitoring requirement.~~

45 (e) ~~The Commission shall not consider any request to terminate a monitoring requirement~~
46 ~~except as provided by this section.~~The district attorney in the district in which the petition is filed
47 shall be given notice of the petition at least three weeks before the hearing on the matter. The
48 petitioner may present evidence in support of the petition, and the district attorney may present
49 evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the
50 petition should be denied.

1 (c) The victim of the underlying offense may appear and be heard by the court in a
2 proceeding regarding a petition for termination or modification of the satellite-based monitoring
3 requirement. If the victim has elected to receive notices of such proceedings, the district
4 attorney's office shall notify the victim of the date, time, and place of the hearing. The district
5 attorney's office may provide the required notification electronically or by telephone, unless the
6 victim requests otherwise. The victim shall be responsible for notifying the district attorney's
7 office of any changes in the victim's address and telephone number or other contact information.
8 The judge in any court proceeding subject to this section shall inquire as to whether the victim is
9 present and wishes to be heard. If the victim is present and wishes to be heard, the court shall
10 grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be
11 exercised, at the victim's discretion, through an oral statement, submission of a written statement,
12 or submission of an audio or video statement.

13 (d) The petition may be granted only if the court makes all of the following findings:

14 (1) The petitioner no longer requires the highest possible level of supervision and
15 monitoring, for life.

16 (2) The petitioner has not had a subsequent arrest for any of the following:

17 a. An offense involving the physical, mental, or sexual abuse of a minor.

18 b. An aggravated offense, as defined in G.S. 14-208.6(1a).

19 c. A sexually violent offense, as defined in G.S. 14-208.6(5).

20 (e) The court may order any of the following:

21 (1) The petitioner to remain enrolled in the satellite-based monitoring program
22 for life.

23 (2) The petitioner to remain enrolled in the satellite-based monitoring program
24 for a period of time to be specified by the court.

25 (3) The petitioner's requirement to enroll in the satellite-based monitoring
26 program be terminated.

27 (4) The defendant to submit to a passive continuous satellite-based program that
28 works within the technological or geographical limitations for a set period of
29 time not to exceed five years without review.

30 (f) If the court denies the petition, the person may again petition the court for relief in
31 accordance with this section two years from the date of the denial of the original petition to
32 terminate the satellite-based monitoring requirement. If the court grants the petition, the clerk of
33 court shall forward a certified copy of the order to the Post-Release Supervision and Parole
34 Commission. The Commission-court has no authority to consider or terminate a monitoring
35 requirement for an offender described in G.S. 14-208.40(a)(2)."

36 **SECTION 20.(f)** The Division of Adult Correction and Juvenile Justice shall provide
37 each elected District Attorney a list of the individuals that reside in a county in that District
38 Attorney's district that is subject to State v. Grady 831 S.E. 2d 542 (NC 2019), decided August
39 16, 2019, namely all individuals in the same category as the defendant, Mr. Grady: individuals
40 subject to mandatory lifetime satellite-based monitoring based solely on their status as a
41 statutorily defined "recidivist" who have completed their prison sentences and are no longer
42 supervised by the State through probation, parole, or post-release supervision. An elected District
43 Attorney must decide to handle each case or have the Attorney General handle the case. If
44 requested by an elected District Attorney, the Attorney General shall make a preliminary
45 determination whether the recidivist subject to State v. Grady, may meet any requirement to
46 enroll in a satellite-based monitoring program other than being a recidivist, and represent the
47 State in any proceedings created by this section. Each District Attorney or Attorney General shall
48 review the determination for every one of the class members. If the District Attorney or Attorney
49 General makes a preliminary determination that the individual may meet any requirement to
50 enroll in a satellite-based monitoring program other than being a recidivist, the District Attorney
51 or Attorney General shall notify the person and the sheriff in the county where the individual

1 resides. The District Attorney or Attorney General may petition the court in that county for a
2 hearing to have a judge determine if an individual subject to State v. Grady meets the criteria for
3 satellite-based monitoring consistent with G.S. 14-208.40A, as amended by this act.

4 **SECTION 20.(g)** Subsection (f) of this section becomes effective August 1, 2021,
5 and applies to any individual required to enroll in the satellite-based monitoring program based
6 solely on being a "recidivist" on or after August 16, 2019. The remainder of this section becomes
7 effective August 1, 2021, and applies to satellite-based monitoring determinations on or after that
8 date.

9
10 **PART XXI. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

11 **SECTION 21.(a)** Prosecutions for offenses committed before the effective date of
12 this act are not abated or affected by this act, and the statutes that would be applicable but for
13 this act remain applicable to those prosecutions.

14 **SECTION 21.(b)** Except as otherwise provided, this act is effective when it becomes
15 law.