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A BILL TO BE ENTITLED

1
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 DECRIMINALIZE CERTAIN LOCAL ORDINANCES AND PROVIDE COMPLIANCE
16 AS A DEFENSE TO AN ORDINANCE VIOLATION; TO MANDATE MISDEMEANOR
17 FIRST APPEARANCES WHEN A DEFENDANT IS IN CUSTODY; TO REQUIRE USE
18 OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE
19 INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW ENFORCEMENT
20 STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED
21 PERSONNEL; TO ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO
22 INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE; TO ADDRESS
23 CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN
24 STATE VERSUS GRADY AND CREATE A PROCESS TO REVIEW WHETHER
25 OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM
26 SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE; TO REMOVE THE
27 STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY
28 LICENSING BOARDS; TO PROTECT LAW ENFORCEMENT OFFICERS; TO AMEND
29 THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA
30 RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY; AND TO
31 ESTABLISH THE BIPARTISAN NORTH CAROLINA LEGISLATIVE WORKING
32 GROUP TO MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH
33 CAROLINA'S CRIMINAL LAWS.



1 The General Assembly of North Carolina enacts:

2
3 **PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW**
4 **ENFORCEMENT DATABASE REGULATIONS**

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

7 **"§ 17C-14. Database of law enforcement 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 law enforcement officer certifications
10 by the Commission."

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

13 **"§ 17E-14. Database of justice officer certification suspensions and revocations.**

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

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

18
19 **PART II. REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT**
20 **GENERATION IDENTIFICATION (NGI) SYSTEM AND RAP BACK SERVICE**

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

23 **"§ 143B-972.1. Criminal record checks for North Carolina Criminal Justice Education and**
24 **Training Standards Commission and North Carolina Sheriffs' Education and**
25 **Training Standards Commission; fingerprints sent to Federal Bureau of**
26 **Investigation.**

27 (a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal
28 Justice Education and Training Standards Commission and the North Carolina Sheriffs'
29 Education and Training Standards Commission the criminal history of any person who applies
30 for certification or is certified, as a criminal justice officer or justice officer, from the State and
31 National Repositories of Criminal Histories. Each agency employing certified criminal justice
32 officers or justice officers shall provide to the SBI, the fingerprints of any person who applies for
33 certification and certified officers, other identifying information required by the State and
34 National Repositories, and any additional information required by the SBI.

35 (b) The SBI shall conduct a criminal history records check using the fingerprints of the
36 applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B.
37 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System
38 (SAFIS).

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

46 (d) Within 15 business days of receiving notification by either Commission that the
47 individual whose fingerprints have been stored in the State Automated Fingerprint Identification
48 System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or
49 separated from employment and an Affidavit of Separation has been filed with either
50 Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a

1 request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap
2 Back Service.

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

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

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

9
10 **PART III. CRITICAL INCIDENT STATEWIDE DATABASE**

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

12 **"§ 17C-2. Definitions.**

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

14 ...

15 (3a) Critical incident. – An incident involving any use of force by a law
16 enforcement officer that results in death or serious bodily injury to a person.

17"

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

20 **"§ 17C-15. Database for law enforcement officer critical incident information.**

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

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

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

29 (d) A law enforcement officer who is reported to the Division as having been involved in
30 a critical incident who disputes being involved in a critical incident has a right, prior to being
31 placed in the database, to request a hearing in superior court for a determination of whether the
32 officer's involvement was properly placed in the database."

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

34 **"§ 17E-2. Definitions.**

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

36 ...

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

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

41 **"§ 17E-15. Database for justice officer critical incident information.**

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

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

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

49 (d) A justice officer who is reported to the Division as having been involved in a critical
50 incident who disputes being involved in a critical incident has a right, prior to being placed in the

1 database, to request a hearing in superior court for a determination of whether the officer's
2 involvement was properly placed in the database."

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

5
6 **PART IV. REPORT REQUIREMENT RELATED TO GIGLIO MATERIAL**

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

9 **"§ 17C-16. Requirement to report material relevant to testimony.**

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

16 (1) In writing by a superior court judge, district court judge, federal judge, district
17 attorney, assistant district attorney, United States attorney, assistant United
18 States attorney, or the person's agency head.

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

21 (b) The report to the Division shall be in writing and shall state who notified the person
22 that the person may not be called to testify at trial. A person required to report to the Division
23 under subsection (a) of this section shall make the same report to the person's agency head within
24 30 days of being notified that the person may not be called to testify at trial. An agency head who
25 receives a report that a person in the agency has been notified that they may not be called to
26 testify at trial shall also report the notification to the Division in writing within 30 days of the
27 agency head's receipt of that report.

28 (c) A superior court judge, district court judge, federal judge, district attorney, assistant
29 district attorney, United States attorney, or assistant United States attorney who notifies a person
30 that they may not be called to testify at trial as provided in subsection (a) of this section shall
31 report that notification to the Division and provide a copy of the written document or order within
32 30 days of notifying the person that they may not be called to testify at trial.

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

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

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

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

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

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

18 **"§ 17E-16. Requirement to report material relevant to testimony.**

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

25 (1) In writing by a superior court judge, district court judge, federal judge, district
26 attorney, assistant district attorney, United States attorney, assistant United
27 States attorney, or the person's agency head.

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

30 (b) The report to the Division shall be in writing and shall state who notified the person
31 that the person may not be called to testify at trial. A person required to report to the Division
32 under subsection (a) of this section shall make the same report to the person's agency head within
33 30 days of being notified that the person may not be called to testify at trial. An agency head who
34 receives a report that a person in the agency has been notified that they may not be called to
35 testify at trial shall also report the notification to the Division in writing within 30 days of the
36 agency head's receipt of that report.

37 (c) A superior court judge, district court judge, federal judge, district attorney, assistant
38 district attorney, United States attorney, or assistant United States attorney who notifies a person
39 that they may not be called to testify at trial as provided in subsection (a) of this section shall
40 report that notification to the Division and provide a copy of the written document or order within
41 30 days of notifying the person that they may not be called to testify at trial.

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

49 (e) If any person required to report to the Division pursuant to subsection (a) of this
50 section is subsequently informed in writing that that notification has been rescinded, the person
51 shall provide the Division a copy of that document. The provisions of subsection (d) of this

1 section do not apply if the person required to report pursuant to subsection (a) of this section is
2 subsequently informed in writing that the notification has been rescinded.

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

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

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

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

29 **PART V. REQUIRE CERTAIN MINIMUM LAW ENFORCEMENT OFFICER** 30 **STANDARDS**

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

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

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

42 **PART VI. TRANSPORTATION OF INVOLUNTARY COMMITMENT** 43 **RESPONDENTS**

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

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

1 substantial. The health care provider of the respondent or the family or immediate friends of the
2 respondent shall bear the costs of providing this transportation."

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

5
6 **PART VII. LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS, ONGOING**
7 **REQUIREMENTS, AND CREATE A PHYSICAL FITNESS STUDY**

8 **SECTION 7.(a)** 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 (2) Establish minimum educational and training standards that must be met in
14 order to qualify for entry level employment and retention as a criminal justice
15 officer in temporary or probationary status or in a permanent position. The
16 standards for entry level employment shall include all of the following:

17 ...
18 c. Education and training to develop knowledge and increase awareness
19 of effective mental health and wellness strategies for criminal justice
20 officers.

21 ...
22 (14) Establish minimum standards for in-service training for criminal justice
23 officers. In-service training standards shall include all of the following:

24 ...
25 c. Training to develop knowledge and increase awareness of effective
26 mental health and wellness strategies for criminal justice officers. The
27 standards established shall include two hours of training on this issue
28 every three years.

29"

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

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

34 ...
35 (2) Establish minimum educational and training standards that may be met in
36 order to qualify for entry level employment as an officer in temporary or
37 probationary status or in a permanent position. The standards for entry level
38 employment of officers shall include all of the following:

39 ...
40 c. Education and training to develop knowledge and increase awareness
41 of effective mental health and wellness strategies for justice officers.

42 ...
43 (11) Establish minimum standards for in-service training for justice officers.
44 In-service training standards shall include all of the following:

45 ...
46 c. Training to develop knowledge and increase awareness of effective
47 mental health and wellness strategies for justice officers. The
48 standards established shall include two hours of training on this issue
49 every three years.

50"

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

1 "(c) In addition to the requirements of subsection (b) of this section, the Commission, by
2 rules and regulations, shall fix other qualifications for the employment, training, and retention of
3 criminal justice officers including minimum age, education, physical and mental standards,
4 citizenship, good moral character, experience, and such other matters as relate to the competence
5 and reliability of persons to assume and discharge the responsibilities of criminal justice officers,
6 ~~and the officers.~~ The Commission shall prescribe the means for presenting evidence of fulfillment
7 of these requirements. The Commission shall require the administration of a psychological
8 screening examination, including a face-to-face, in-person interview conducted by a licensed
9 psychologist, to determine the criminal justice officer's psychological suitability to properly
10 fulfill the responsibilities of the criminal justice officer. If face-to-face, in-person is not
11 practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow
12 for a professional clinical evaluation in a clinical environment. The psychological screening
13 examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice
14 officer performing any action requiring certification by the Commission.

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

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

20 "(c) In addition to the requirements of subsection (b) of this section, the Commission, by
21 rules and regulations, may fix other qualifications for the employment and retention of justice
22 officers including minimum age, education, physical and mental standards, citizenship, good
23 moral character, experience, and such other matters as relate to the competence and reliability of
24 persons to assume and discharge the responsibilities of the ~~office,~~ ~~and the office.~~ The
25 Commission shall prescribe the means for presenting evidence of fulfillment of these
26 requirements. The Commission shall require the administration of a psychological screening
27 examination, including a face-to-face, in-person interview conducted by a licensed psychologist,
28 to determine the justice officer's psychological suitability to properly fulfill the responsibilities
29 of the justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can
30 be virtual as long as both the audio and video allow for a professional clinical evaluation in a
31 clinical environment. The psychological screening examination shall be given (i) prior to the
32 initial certification or (ii) prior to the criminal justice officer performing any action requiring
33 certification by the Commission.

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

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

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

49 **SECTION 7.(g)** All criminal justice agencies or departments in the State that employ
50 criminal justice officers certified by the North Carolina Criminal Justice Education and Training
51 Standards Commission or justice officers certified by the North Carolina Sheriffs' Education and

1 Training Standards Commission shall coordinate with the appropriate local management
2 entity/managed care organization (LME/MCO) or prepaid health plan, as defined under
3 G.S. 108D-1, to make information on State and local mental health resources and programs easily
4 available to all employees and develop policies to encourage employees to utilize the resources
5 available.

6 **SECTION 7.(h)** The North Carolina Criminal Justice Education and Training
7 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
8 Commission shall jointly study the benefits, if any, of requiring physical fitness testing
9 throughout the career of a law enforcement officer, and shall also study whether that testing, if
10 required, should be incrementally adjusted based upon the age of the law enforcement officer,
11 and report to the Joint Legislative Oversight Committee on Justice and Public Safety no later
12 than March 31, 2022.

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

19 **SECTION 7.(j)** Subsections (a) through (d) of this section become effective January
20 1, 2022, and apply to applications for law enforcement certification filed on or after that date.
21 The remainder of this section is effective when it becomes law.
22

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

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

26 **"§ 17A-10. Development of law enforcement early warning system.**

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

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

34 (2) Instances of use of force.

35 (3) Vehicle collisions.

36 (4) Citizen complaints.

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

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

41 **SECTION 8.(b)** This section becomes effective December 1, 2021, and applies to
42 actions and behaviors on or after that date.
43

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

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

49 **SECTION 9.(b)** The North Carolina Criminal Justice Education and Training
50 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
51 Commission shall report to the Joint Legislative Oversight Committee on Justice and Public

1 Safety no later than April 1, 2022, regarding the best practices guide required by subsection (a)
2 of this section.

3 4 **PART X. INVESTIGATIONS OF OFFICER-INVOLVED DEATHS**

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

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

9 (1) A sworn law enforcement officer with the power to arrest uses force against
10 an individual in the performance of the officer's duties that results in the death
11 of the individual.

12 (2) An individual in the custody of the Department of Public Safety, a State
13 prison, a county jail, or a local confinement facility, regardless of the physical
14 location of the individual, dies."

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

16 17 **PART XI. MANDATORY IN-SERVICE TRAINING FOR LAW ENFORCEMENT** 18 **OFFICERS**

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

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

24 ...

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

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

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

36 c. Ethics.

37 d. Mental health for criminal justice officers.

38 e. Community policing.

39 f. Minority sensitivity.

40 g. Use of force.

41 h. The duty to intervene and report.

42"

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

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

48 ...

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

- 1 a. ~~Training in response~~ Response to, and investigation of, domestic
 2 violence cases, as well as training in investigation for evidence-based
 3 prosecutions. For purposes of the domestic violence training
 4 requirement, the term "justice officer" shall include those defined in
 5 G.S. 17E-2(3)a., except that the term shall not include "special deputy
 6 sheriffs" as defined in G.S. 17E-2(3)a.
- 7 b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling
 8 and processing of juvenile matters for referrals, diversion, arrests, and
 9 detention; (ii) best practices for handling incidents involving juveniles;
 10 (iii) adolescent development and psychology; and (iv) promoting
 11 relationship building with youth as a key to delinquency prevention.
- 12 c. Ethics.
- 13 d. Mental health for justice officers.
- 14 e. Community policing.
- 15 f. Minority sensitivity.
- 16 g. Use of force.
- 17 h. The duty to intervene and report.

18"

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

20
 21 **PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING**
 22 **STANDARDS FROM RULEMAKING**

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

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

26 ...

27 (6a) The Criminal Justice Education and Training Standards Commission with
 28 respect to establishing minimum standards for in-service training for criminal
 29 justice officers under G.S. 17C-6(a)(14).

30 (6b) The Sheriffs' Education and Training Standards Commission with respect to
 31 establishing minimum standards for in-service training for justice officers
 32 under G.S. 17E-4(a)(11).

33"

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

35
 36 **PART XIII. DECRIMINALIZATION OF CERTAIN ORDINANCES**

37 **SECTION 13.(a)** G.S. 153A-123 reads as rewritten:

38 "**§ 153A-123. Enforcement of ordinances.**

39 ...

40 (b) ~~Unless the board of commissioners has provided otherwise, Except for the types of~~
 41 ordinances listed in subsection (b1) of this section, violation of a county ordinance is may be a
 42 misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the county specifies such
 43 in the ordinance. An ordinance may provide by express statement that the maximum fine, term
 44 of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or
 45 number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45,
 46 no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first
 47 introduced.

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

49 (1) Any ordinance adopted under Article 18 of this Chapter, Planning and
 50 Regulation of Development or, its successor, Chapter 160D of the General
 51 Statutes, except for those ordinances related to unsafe buildings.

- 1 (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing
 2 businesses, trades, etc.
 3 (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile
 4 homes, house trailers, etc.
 5 (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing
 6 programs.
 7 (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor
 8 advertising or, its successor, G.S. 160D-912, Outdoor advertising.
 9 (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating
 10 solar collectors or, its successor, G.S. 160D-914, Solar collectors.
 11 (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating
 12 cisterns and rain barrels.
 13 (8) Any ordinance regulating trees.

14 "

15 **SECTION 13.(b)** G.S. 160A-175 reads as rewritten:

16 "**§ 160A-175. Enforcement of ordinances.**

17 ...

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

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

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

43 "

44 **SECTION 13.(c)** G.S. 14-4 reads as rewritten:

45 "**§ 14-4. Violation of local ordinances misdemeanor.**

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

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

4 (c) A person may not be found responsible or guilty of a local ordinance violation
5 punishable pursuant to subsection (a) of this section if, when tried for that violation, the person
6 produces proof of compliance with the local ordinance through any of the following:

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

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

13 **SECTION 13.(d)** This section becomes effective December 1, 2021, and applies to
14 offenses and violations committed on or after that date.

15
16 **PART XIV. REQUIRE MANDATORY FIRST APPEARANCE FOR MISDEMEANORS**
17 **WHEN DEFENDANT IS IN CUSTODY AND REQUIRE FIRST APPEARANCE FOR**
18 **ALL CHARGES WHEN DEFENDANT IS IN CUSTODY TO BE HELD WITHIN**
19 **SEVENTY-TWO HOURS**

20 **SECTION 14.(a)** G.S. 15A-601 reads as rewritten:

21 **"§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases~~**
22 **~~in original jurisdiction of superior court; consolidation of first appearance~~**
23 **~~before magistrate and before district court judge; first appearance before clerk~~**
24 **~~of superior court; use of two-way audio and video transmission.~~**

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

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

36 ...

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

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

48 ...

49 (e) The clerk of the superior court in the county in which the defendant is taken into
50 custody may conduct a first appearance as provided in this Article if a district court judge is not
51 available in the county within ~~96-72~~ hours after the defendant is taken into custody. A magistrate

1 may conduct the first appearance if the clerk is not available. The ~~clerk,~~ clerk or magistrate, in
2 conducting a first appearance, shall proceed under this Article as would a district court judge."

3 **SECTION 14.(b)** This section becomes effective December 1, 2021, and applies to
4 criminal processes served on or after that date.

5
6 **PART XV. REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX**
7 **MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW**
8 **ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION**
9 **PROCESS FOR CERTIFIED PERSONNEL**

10 **SECTION 15.(a)** G.S. 17C-6(a) reads as rewritten:

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

14 ...

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

23 **SECTION 15.(b)** G.S. 17E-4(a) reads as rewritten:

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

27 ...

28 (17) Search the National Decertification Index (NDI) maintained by the
29 International Association of Directors of Law Enforcement Standards and
30 Training (IADLEST) using the name of every applicant for certification or
31 applicant for lateral transfer, and any other personal identifying information
32 necessary to complete the search, and shall utilize any record of conviction of
33 a criminal offense received as a result of the search during the application and
34 lateral transfer process to determine if the applicant has any record that would
35 disqualify the applicant for certification.

36"

37 **SECTION 15.(c)** This section becomes effective October 1, 2021, and applies to
38 applications for certification submitted on or after that date.

39
40 **PART XVI. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO**
41 **INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE**

42 **SECTION 16.(a)** G.S. 15A-401 is amended by adding a new subsection to read:

43 "(d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer,
44 while in the line of duty, who observes another law enforcement officer use force against another
45 person that the observing officer reasonably believes exceeds the amount of force authorized by
46 subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall, if
47 it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the
48 observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter,
49 report what the officer reasonably believes to be an unauthorized use of force to a superior law
50 enforcement officer within the agency of the observing officer, even if the observing officer did
51 not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the

1 observing officer was involved or present during what the observing officer reasonably believes
2 to be unauthorized use of force, the observing officer shall make the report to the highest ranking
3 law enforcement officer of that officer's agency who was not involved in or present during the
4 use of force."

5 **SECTION 16.(b)** This section becomes effective December 1, 2021, and applies to
6 uses of force that occur on or after that date.

7
8 **PART XVII. REMOVE THE STANDARDS COMMISSIONS FROM A**
9 **NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS**

10 **SECTION 17.(a)** G.S. 93B-1(3)e. is repealed.

11 **SECTION 17.(b)** This section becomes effective December 1, 2021.

12
13 **PART XVIII. ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED**
14 **MONITORING RAISED IN STATE V. GRADY AND CREATE A PROCESS TO**
15 **REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE**
16 **REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE**
17 **ELIGIBLE**

18 **SECTION 18.(a)** Part V of Article 27A of Chapter 14 of the General Statutes is
19 amended by adding a new section to read:

20 **"§ 14-208.39. Legislative finding of efficacy.**

21 The General Assembly finds that empirical and statistical reports such as the 2015 California
22 Study, "Does GPS Improve Recidivism among High Risk Sex Offenders? Outcomes for
23 California's GPS Pilot for High Risk Sex Offender Parolees," show that sex offenders monitored
24 with the global positioning system (GPS) are less likely than other sex offenders to receive a
25 violation for committing a new crime, and that offenders monitored by GPS demonstrated
26 significantly better outcomes for both increasing compliance and reducing recidivism. It is the
27 intent of the General Assembly to protect the public from victimization. Therefore, the General
28 Assembly recognizes that the GPS monitoring program is an effective tool to deter criminal
29 behavior among sex offenders."

30 **SECTION 18.(b)** G.S. 14-208.6 reads as rewritten:

31 **"§ 14-208.6. Definitions.**

32 The following definitions apply in this Article:

33 ...

34 **(3e)** Reoffender. – A person who has two or more convictions for a felony that is
35 described in G.S. 14-208.6(4). For purposes of this definition, if an offender
36 is convicted of more than one offense in a single session of court, only one
37 conviction is counted.

38"

39 **SECTION 18.(c)** G.S. 14-208.40 reads as rewritten:

40 **"§ 14-208.40. Establishment of program; creation of guidelines; duties.**

41 (a) The Division of Adult Correction and Juvenile Justice of the Department of Public
42 Safety shall establish a sex offender monitoring program that uses a continuous satellite-based
43 monitoring system and shall create guidelines to govern the program. The program shall be
44 designed to monitor three categories of offenders as follows:

- 45 (1) Any offender who is convicted of a reportable conviction as defined by
46 G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A
47 of Chapter 14 of the General Statutes because the defendant is classified as a
48 sexually violent predator, is a ~~recidivist, reoffender,~~ or was convicted of an
49 aggravated offense as those terms are defined in ~~G.S. 14-208.6.~~ G.S. 14-208.6
50 and based on the Division of Adult Correction and Juvenile Justice's risk

1 assessment program requires the highest possible level of supervision and
2 monitoring.

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

10 (3) Any offender who is convicted of G.S. 14-27.23 or ~~G.S. 14-27.28, who shall~~
11 ~~be enrolled in the satellite-based monitoring program for the offender's natural~~
12 ~~life upon termination of the offender's active punishment.~~ G.S. 14-27.28 and
13 based on the Division of Adult Correction and Juvenile Justice's risk
14 assessment program requires the highest possible level of supervision and
15 monitoring.

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

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

- 26 (1) Time-correlated and continuous tracking of the geographic location of the
27 subject using a global positioning system based on satellite and other location
28 tracking technology.
- 29 (2) Reporting of subject's violations of prescriptive and proscriptive schedule or
30 location requirements. Frequency of reporting may range from once a day
31 (passive) to near real-time (active).

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

36 **SECTION 18.(d)** G.S. 14-208.40A reads as rewritten:

37 **"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

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

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

48 (b) After receipt of the evidence from the parties, the court shall determine whether the
49 offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a),
50 and if so, shall make a finding of fact of that determination, specifying whether (i) the offender
51 has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is

1 a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, (iv) the conviction
2 offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the
3 physical, mental, or sexual abuse of a minor.

4 (c) If the court finds that the offender has been classified as a sexually violent predator,
5 is a ~~recidivist, reoffender~~, has committed an aggravated offense, or was convicted of
6 G.S. 14-27.23 or G.S. 14-27.28, the court shall order ~~that the offender to enroll in a satellite-based~~
7 ~~monitoring program for life.~~ Division of Adult Correction and Juvenile Justice do a risk
8 assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up
9 to 60 days to complete the risk assessment of the offender and report the results to the court.

10 (c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile
11 Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the
12 Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the
13 highest possible level of supervision and monitoring. If the court determines that the offender
14 does require the highest possible level of supervision and monitoring, the court shall order the
15 offender to enroll in a satellite-based monitoring program for a period of 10 years.

16 (d) If the court finds that the offender committed an offense that involved the physical,
17 mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of
18 G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a ~~recidivist, reoffender~~, the court shall
19 order that the Division of Adult Correction do a risk assessment of the offender. The Division of
20 Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60~~
21 ~~days, up to 60 days~~ to complete the risk assessment of the offender and report the results to the
22 court.

23 (e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile
24 Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the
25 Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the
26 highest possible level of supervision and monitoring. If the court determines that the offender
27 does require the highest possible level of supervision and monitoring, the court shall order the
28 offender to enroll in a satellite-based monitoring program for a period of time to be specified by
29 the ~~court.~~ court, not to exceed 10 years."

30 **SECTION 18.(e)** G.S. 14-208.40B reads as rewritten:

31 "**§ 14-208.40B. Determination of satellite-based monitoring requirement in certain**
32 **circumstances.**

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

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

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

1 If the court finds that (i) the offender has been classified as a sexually violent predator
2 pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense
3 was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or
4 G.S. 14-27.28, the court shall order that the offender to enroll in satellite-based monitoring for
5 life. Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The
6 Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk
7 assessment of the offender and report the results to the court.

8 (c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile
9 Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the
10 Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the
11 highest possible level of supervision and monitoring. If the court determines that the offender
12 does require the highest possible level of supervision and monitoring, the court shall order the
13 offender to enroll in a satellite-based monitoring program for a period of 10 years.

14 If the court finds that the offender committed an offense that involved the physical, mental,
15 or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of
16 G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a ~~recidivist, reoffender,~~ the court shall
17 order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the
18 offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30~~
19 ~~days, but not more than 60 days,~~ up to 60 days to complete the risk assessment of the offender
20 and report the results to the court. The Division of Adult Correction and Juvenile Justice may use
21 a risk assessment of the offender done within six months of the date of the hearing.

22 Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice,
23 the court shall determine whether, based on the Division of Adult Correction and Juvenile
24 Justice's risk assessment, the offender requires the highest possible level of supervision and
25 monitoring. If the court determines that the offender does require the highest possible level of
26 supervision and monitoring, the court shall order the offender to enroll in a satellite-based
27 monitoring program for a period of time to be specified by the ~~court,~~ court, not to exceed 10
28 years."

29 **SECTION 18.(f)** G.S. 14-208.41 reads as rewritten:

30 **"§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of**
31 **enrollment.enrollment; tolling.**

32 (a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based
33 monitoring program with the Section of Community Corrections of the Division of Adult
34 Correction and Juvenile Justice office in the county where the person resides. The person shall
35 remain enrolled in the satellite-based monitoring program for the registration period imposed
36 ~~under G.S. 14-208.23 which is the person's life, for a period required by G.S. 14-208.40A or~~
37 ~~G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is~~
38 ~~terminated or modified pursuant to G.S. 14-208.43.~~

39 (b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant
40 to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall
41 do so with the Section of Community Corrections of the Division of Adult Correction and
42 Juvenile Justice office in the county where the person resides. The person shall remain enrolled
43 in the satellite-based monitoring program for the period of time ordered by the court.

44 (c) Any person described by G.S. 14-208.40(a)(3), upon completion of active
45 punishment, shall enroll in a satellite-based monitoring program with the Section of Community
46 Corrections of the Division of Adult Correction and Juvenile Justice office in the county where
47 the person resides. The person shall enroll in the satellite-based monitoring program for the entire
48 period of post-release supervision and shall remain enrolled in the satellite-based monitoring
49 program for ~~the person's life, the period required by G.S. 14-208.40A or G.S. 14-208.40B unless~~
50 ~~the requirement to enroll in the satellite-based monitoring program is terminated or modified~~
51 ~~pursuant to G.S. 14-208.43. Any term of imprisonment based on revocation of probation or~~

1 post-release supervision for the conviction which resulted in satellite-based monitoring tolls the
2 period of enrollment."

3 **SECTION 18.(g)** G.S. 14-208.42 reads as rewritten:

4 **"§ 14-208.42. Offenders required to submit to satellite-based monitoring required to**
5 **cooperate with Division of Adult Correction and Juvenile Justice upon**
6 **completion of sentence.**

7 Notwithstanding any other provision of law, when an offender is required to enroll in
8 satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of
9 the offender's sentence and any term of parole, post-release supervision, intermediate
10 punishment, or supervised probation that follows the sentence, the offender shall continue to be
11 enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or
12 G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring
13 program is terminated or modified pursuant to G.S. 14-208.43.

14 The Division of Adult Correction and Juvenile Justice shall have the authority to have contact
15 with the offender at the offender's residence or to require the offender to appear at a specific
16 location as needed for the purpose of enrollment, to receive monitoring equipment, to have
17 equipment examined or maintained, and for any other purpose necessary to complete the
18 requirements of the satellite-based monitoring program. The offender shall cooperate with the
19 Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based
20 monitoring program until the offender's requirement to enroll is terminated and the offender has
21 returned all monitoring equipment to the Division of Adult Correction and Juvenile Justice."

22 **SECTION 18.(h)** G.S. 14-208.43 reads as rewritten:

23 **"§ 14-208.43. Request-Petition for termination or modification of the satellite-based**
24 **monitoring requirement.**

25 (a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is
26 required to submit to satellite-based monitoring ~~for the offender's life~~ may file a request-petition
27 for termination or modification of the monitoring requirement with the ~~Post-Release Supervision~~
28 ~~and Parole Commission.~~ The request to terminate the satellite-based monitoring requirement and
29 to terminate the accompanying requirement of unsupervised probation may not be submitted until
30 at least one year after the offender: (i) has served his or her sentence for the offense for which
31 the satellite-based monitoring requirement was imposed, and (ii) has also completed any period
32 of probation, parole, or post-release supervision imposed as part of the sentence. superior court
33 in the county where the conviction occurred five years after the date of initial enrollment.

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

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

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

48 (d1) ~~Notwithstanding the provisions of this section, if the Commission is notified by the~~
49 ~~Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the~~
50 ~~offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under~~

1 Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order
2 the termination of the monitoring requirement.

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

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

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

22 (1) The petitioner has been enrolled in the satellite-based monitoring program for
23 at least five years.

24 (2) The petitioner no longer requires the highest possible level of supervision and
25 monitoring for 10 years.

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

27 (1) The petitioner to remain enrolled in the satellite-based monitoring program
28 for a period of time to be specified by the court, not to exceed a total of 10
29 years.

30 (2) The petitioner's requirement to enroll in the satellite-based monitoring
31 program be terminated.

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

38 **SECTION 18.(i)** Article 27A of Chapter 14 of the General Statutes is amended by
39 adding a new section to read:

40 **"§ 14-208.46. Petition for postenrollment determination for lifetime satellite-based**
41 **monitoring enrollees.**

42 (a) An offender who is enrolled in a satellite-based monitoring for life may file a petition
43 for termination or modification of the monitoring requirement with the superior court in the
44 county where the conviction occurred five years after the date of initial enrollment.

45 (b) The district attorney in the district in which the petition is filed shall be given notice
46 of the petition at least three weeks before the hearing on the matter. The petitioner may present
47 evidence in support of the petition, and the district attorney may present evidence in opposition
48 to the requested relief or may otherwise demonstrate the reasons why the petition should be
49 denied.

50 (c) The victim of the underlying offense may appear and be heard by the court in a
51 proceeding regarding a petition for termination or modification of satellite-based monitoring

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

11 (d) If the petitioner has not been enrolled in the satellite-based monitoring program for at
12 least 10 years, the court shall order the petitioner to remain enrolled in the satellite-based
13 monitoring program for a total of 10 years.

14 (e) If the petitioner has been enrolled in the satellite-based monitoring program for more
15 than 10 years, the court shall order the petitioner's requirement to enroll in the satellite-based
16 monitoring program be terminated.

17 (f) The court has no authority to terminate the satellite-based monitoring requirement for
18 an offender ordered to satellite-based monitoring for life prior to 10 years of enrollment."

19 **SECTION 18.(j)** G.S. 15A-1343 reads as rewritten:

20 "**§ 15A-1343. Conditions of probation.**

21 ...

22 (a1) Community and Intermediate Probation Conditions. – In addition to any conditions a
23 court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any
24 one or more of the following conditions as part of a community or intermediate punishment:

25 ...

26 (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of
27 Chapter 14 of the General Statutes, if the defendant is described by
28 G.S. 14-208.40(a)(2)-G.S. 14-208.40(a)(2), and based on the Division of
29 Adult Correction and Juvenile Justice's risk assessment program requires the
30 highest possible level of supervision and monitoring.

31 ...

32 (b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses
33 Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a
34 defendant who has been convicted of an offense which is a reportable conviction as defined in
35 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

36 ...

37 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
38 Chapter 14 of the General Statutes, if the defendant is described by
39 G.S. 14-208.40(a)(1)-G.S. 14-208.40(a)(1), and the Division of Adult
40 Correction and Juvenile Justice of the Department of Public Safety, based on
41 the Division's risk assessment program, recommends that the defendant
42 submit to the highest possible level of supervision and monitoring.

43"

44 **SECTION 18.(k)** G.S. 15A-1343.2 reads as rewritten:

45 "**§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

46 (a) Applicability. – This section applies only to persons sentenced under Article 81B of
47 this Chapter.

48 ...

49 (f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding
50 judge specifically finds in the judgment of the court that delegation is not appropriate, the Section
51 of Community Corrections of the Division of Adult Correction and Juvenile Justice of the

1 Department of Public Safety may require an offender sentenced to intermediate punishment to
2 do any of the following:

3 ...

- 4 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
5 Chapter 14 of the General Statutes, if the defendant is described by
6 ~~G.S. 14-208.40(a)(2)~~-G.S. 14-208.40(a)(2), and based on the Division of
7 Adult Correction and Juvenile Justice's risk assessment program requires the
8 highest possible level of supervision and monitoring.

9 ...

10 If the Section imposes any of the above requirements, then it may subsequently reduce or remove
11 those same requirements.

12 ...

13 (f1) Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders. –
14 Notwithstanding any other provision of this section, the court shall impose satellite-based
15 monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition
16 of probation on any offender who is described by ~~G.S. 14-208.40(a)(1)~~-G.S. 14-208.40(a)(1), and
17 based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires
18 the highest possible level of supervision and monitoring.

19"

20 **SECTION 18.(l)** G.S. 15A-1344(e2) is repealed.

21 **SECTION 18.(m)** G.S. 15A-1368.4 reads as rewritten:

22 "**§ 15A-1368.4. Conditions of post-release supervision.**

23 (a) In General. – Conditions of post-release supervision may be reintegrative in nature or
24 designed to control the supervisee's behavior and to enforce compliance with law or judicial
25 order. A supervisee may have his supervision period revoked for any violation of a controlling
26 condition or for repeated violation of a reintegrative condition. Compliance with reintegrative
27 conditions may entitle a supervisee to earned time credits as described in G.S. 15A-1368.2(d).

28 ...

29 (b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
30 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required
31 condition set forth in subsection (b) of this section, for a supervisee who has been convicted of
32 an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the
33 physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may
34 result in revocation of post-release supervision, are:

35 ...

- 36 (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
37 Chapter 14 of the General Statutes, if the offense is a reportable conviction as
38 defined by ~~G.S. 14-208.6(4)~~ and ~~G.S. 14-208.6(4)~~, the supervisee is in the
39 category described by ~~G.S. 14-208.40(a)(1)~~-G.S. 14-208.40(a)(1), and based
40 on the Division of Adult Correction and Juvenile Justice's risk assessment
41 program requires the highest possible level of supervision and monitoring.

- 42 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
43 Chapter 14 of the General Statutes, if the offense is a reportable conviction as
44 defined by ~~G.S. 14-208.6(4)~~ and ~~G.S. 14-208.6(4)~~, the supervisee is in the
45 category described by ~~G.S. 14-208.40(a)(2)~~-G.S. 14-208.40(a)(2), and based
46 on the Division of Adult Correction and Juvenile Justice's risk assessment
47 program requires the highest possible level of supervision and monitoring.

48"

49 **SECTION 18.(n)** G.S. 15A-1374 reads as rewritten:

50 "**§ 15A-1374. Conditions of parole.**

1 (a) In General. – The Post-Release Supervision and Parole Commission may in its
2 discretion impose conditions of parole it believes reasonably necessary to insure that the parolee
3 will lead a law-abiding life or to assist him to do so. The Commission must provide as an express
4 condition of every parole that the parolee not commit another crime during the period for which
5 the parole remains subject to revocation. When the Commission releases a person on parole, it
6 must give him a written statement of the conditions on which he is being released.

7 ...

8 (b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for Certain
9 Offenders. – If a parolee is in a category described by G.S. 14-208.40(a)(1) or
10 ~~G.S. 14-208.40(a)(2)~~, G.S. 14-208.40(a)(2) and based on the Division of Adult Correction and
11 Juvenile Justice's risk assessment program requires the highest possible level of supervision and
12 monitoring, the Commission must require as a condition of parole that the parolee submit to
13 satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

14"

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

34 **SECTION 18.(p)** Subsection (b) of this section applies to satellite-based monitoring
35 determinations on or after December 1, 2021, and includes felony convictions obtained before,
36 on, or after that date. Subsection (i) of this section becomes effective December 1, 2021, and
37 applies to any individual required to enroll in satellite-based monitoring for life on or after that
38 date. Subsection (o) of this section becomes effective December 1, 2021, and applies to any
39 individual required to enroll in the satellite-based monitoring program based solely on being a
40 "recidivist" on or after that date. The remainder of this section becomes effective December 1,
41 2021, and applies to satellite-based monitoring determinations on or after that date.

42 43 **PART XIX. PROTECTIONS FOR LAW ENFORCEMENT OFFICERS**

44 **SECTION 19.(a)** G.S. 14-223 reads as rewritten:

45 "**§ 14-223. Resisting officers.**

46 (a) If any person shall willfully and unlawfully resist, delay or obstruct a public officer
47 in discharging or attempting to discharge ~~a duty of his office, he shall be an official duty, the~~
48 person is guilty of a Class 2 misdemeanor.

49 (b) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer
50 in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction
51 is the proximate cause of a public officer's serious injury, the person is guilty of a Class I felony.

1 (c) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer
2 in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction
3 is the proximate cause of a public officer's serious bodily injury, the person is guilty of a Class F
4 felony.

5 (d) "Serious bodily injury" is defined as bodily injury that creates a substantial risk of
6 death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition
7 that causes extreme pain, or permanent or protracted loss or impairment of the function of any
8 bodily member or organ, or that results in prolonged hospitalization."

9 **SECTION 19.(b)** In order to raise public awareness about resisting, delaying, and
10 obstructing law enforcement officers and encourage North Carolina residents to interact with law
11 enforcement officers safely, the Department of Public Safety shall create a targeted social media
12 campaign and television commercials that address the concerns of not resisting arrest and raising
13 public awareness about resisting, delaying, and obstructing law enforcement officers. DPS shall
14 also make available on its internet website a public service announcement containing legally
15 accurate information regarding the public's responsibilities during traffic stops and other
16 interactions with law enforcement.

17 **SECTION 19.(c)** The Department of Public Safety shall provide to the Division of
18 Motor Vehicles an internet link to the public service announcement authorized by subsection (b)
19 of this section, which the Division of Motor Vehicles shall make available on its internet website.
20 In addition, the Division of Motor Vehicles shall broadcast the public service announcement
21 authorized by subsection (b) of this section on monitors at drivers license office locations across
22 the State.

23 **SECTION 19.(d)** Subsection (a) of this section becomes effective December 1,
24 2021, and applies to offenses committed on or after that date. The remainder of this section is
25 effective when it becomes law.

26 **PART XX. ESTABLISH CRIMINAL RECODIFICATION WORKING GROUP**

27 **SECTION 20.(a)** There is created the Bipartisan North Carolina Legislative
28 Working Group on Criminal Law Recodification (Working Group). The purpose of the Working
29 Group is to make recommendations to the General Assembly regarding a streamlined,
30 comprehensive, orderly, and principled criminal code which includes all common law, statutory,
31 regulatory, and ordinance crimes.

32 **SECTION 20.(b)** The Working Group shall be comprised of nine members selected
33 as follows:

- 34 (1) Two senators who are members of the majority party appointed by the
35 President Pro Tempore of the Senate.
- 36 (2) Two senators who are members of the minority party appointed by the
37 Minority Leader of the Senate.
- 38 (3) Two representatives who are members of the majority party appointed by the
39 Speaker of the House of Representatives.
- 40 (4) Two representatives who are members of the minority party appointed by the
41 Minority Leader of the House of Representatives.
- 42 (5) One individual appointed jointly by the President Pro Tempore of the Senate
43 and the Speaker of the House of Representatives. This individual shall have
44 served at least six years as a member of the General Assembly and shall serve
45 as the chair of the Working Group.

46 **SECTION 20.(c)** The Working Group shall solicit comments and feedback from the
47 public, as well as from all of the following:

- 48 (1) The Chief Justice of the Supreme Court.
- 49 (2) The Attorney General.
- 50 (3) The Conference of District Attorneys.
- 51

- 1 (4) Indigent Defense Services.
- 2 (5) The North Carolina Sheriffs' Association.
- 3 (6) The North Carolina Association of Chiefs of Police.
- 4 (7) The North Carolina Police Benevolent Association.
- 5 (8) The North Carolina League of Municipalities.
- 6 (9) The North Carolina Association of County Commissioners.

7 **SECTION 20.(d)** All appointments to the Working Group shall be made no later
8 than 30 days after this act becomes law. Vacancies on the Working Group shall be filled by the
9 appointing authority. The Working Group, while in the discharge of its official duties, may
10 exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through
11 G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of
12 the State to provide any information, data, or documents within their possession, ascertainable
13 from their records, or otherwise available to them and the power to subpoena witnesses.

14 **SECTION 20.(e)** The Working Group shall meet upon the call of the chair but at
15 least monthly beginning no later than September 15, 2021. A majority of the voting members
16 shall constitute a quorum. Members shall receive per diem, subsistence, and travel allowances in
17 accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate. The Legislative Services
18 Commission, through the Legislative Services Officer, shall assign professional staff to monitor
19 and provide technical assistance to the Working Group; provided, however, legislative staff shall
20 not be made available at times when the 2021 General Assembly is in session. Upon the direction
21 of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House
22 of Representatives shall assign clerical staff to the Working Group. The Working Group shall
23 terminate on December 31, 2022.

24 **SECTION 20.(f)** The Working Group shall establish general principles which shall,
25 at a minimum, provide for all of the following:

- 26 (1) Incorporate existing statutory and common law offenses into Chapter 14 of
27 the General Statutes, harmonizing additions with current Chapter content.
- 28 (2) Apply consistent terminology across statutes and define all terminology.
- 29 (3) Specify the required mental state or that an offense is a strict liability crime.
- 30 (4) Eliminate redundant crimes and multiple punishment for the same conduct.
- 31 (5) Simplify offense numbering.
- 32 (6) Eliminate or modify unconstitutional provisions to ensure lawfulness.
- 33 (7) Eliminate outdated laws.
- 34 (8) Apply consistent, logical offense grading, with advice from the North
35 Carolina Sentencing Policy and Advisory Commission.

36 **SECTION 20.(g)** The Working Group shall provide the following deliverables:

- 37 (1) For common law crimes and crimes included in the North Carolina General
38 Statutes:
 - 39 a. Create a database of all statutory and common law crimes, including
40 statute number or common law designation; offense short title;
41 elements; link to the statute; punishment; special and key features;
42 frequency of charging, if available; and any proposed changes and the
43 status of those changes in order to track decisions by the Working
44 Group.
 - 45 b. Draft legislation amending, recodifying, or proposing changes to
46 North Carolina criminal statutes using a format that is consistent with
47 drafting conventions used by the North Carolina General Assembly,
48 as directed by the Working Group.
- 49 (2) For crimes created by local ordinances:
 - 50 a. Create a database of ordinance offenses, including ordinance title,
51 general description, elements, punishment, and key feature coding.

- 1 The Working Group will sample ordinances from diverse jurisdictions
2 or review all, as time allows.
- 3 b. Report on common ordinance crimes, including charging data, if
4 available, and including presentation of a range of policy options for
5 addressing ordinance crimes consistent with the Working Group's
6 goals.
- 7 c. Draft legislation using a format that is consistent with drafting
8 conventions used by the North Carolina General Assembly, as directed
9 by the Working Group.
- 10 (3) For crimes created by administrative boards and bodies:
- 11 a. Create a database of all crimes created by administrative boards and
12 bodies that make it a crime to violate any regulation created by an
13 administrative board or body, with exemplary regulations and
14 punishment levels.
- 15 b. Report on policy options for addressing regulatory crimes consistent
16 with the Working Group's goals.
- 17 c. Draft legislation using a format that is consistent with drafting
18 conventions used by the North Carolina General Assembly, as directed
19 by the Working Group.
20

21 **PART XXI. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE**

22 **SECTION 21.(a)** If any provision of this act or its application is held invalid, the
23 invalidity does not affect other provisions or applications of this act that can be given effect
24 without the invalid provisions or application, and to this end the provisions of this act are
25 severable.

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

29 **SECTION 21.(c)** Except as otherwise provided, this act is effective when it becomes
30 law.