GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

HOUSE BILL 1104
RATIFIED BILL

AN ACT TO IMPROVE THE INVOLUNTARY COMMITMENT PROCESS AND INCREASE PUBLIC SAFETY AND TO IMPLEMENT AN INPATIENT CAPACITY RESTORATION PROGRAM.

Whereas, the House Select Committee on Involuntary Commitment and Public Safety met six times during the 2025 to 2026 biennium, conducted meaningful work and engaged in productive discussion; and

Whereas, the House Select Committee on Involuntary Commitment and Public Safety identified several areas needing further study and has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

IMPROVE DATA COLLECTION AND FURTHER STUDY

SECTION 1.(a) The North Carolina Collaboratory (Collaboratory) shall study relevant statutes, judicial and clinical practices, and available technological resources to identify areas for systemic improvement in the involuntary commitment (IVC) process in the State. This study shall identify existing gaps in the State's current IVC process and shall provide specific recommendations to address or eliminate those gaps and ensure that individuals subject to involuntary commitment receive timely, data-driven, and accessible support. No later than December 1, 2026, the Collaboratory shall submit a progress report on the study, and no later than March 1, 2027, the Collaboratory shall submit a final report on the study, to the Joint Legislative Committee on Health and Human Services on the results of the study, which shall include, at a minimum, all of the following:

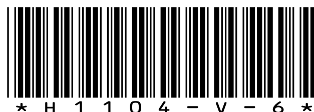
(1) A comprehensive evaluation of the legal and operational frameworks governing involuntary commitment in the State to provide formal recommendations for systemic improvement. This evaluation shall focus on the following:

a. Ensuring that judicial officers receive timely clinical data from examiners to make informed, legally sound decisions regarding an individual's safety and treatment needs.

b. Parameters for training judges and magistrates on community-based services, such as Treatment Accountability for Safer Communities (TASC), "Community Treatment" teams, and Forensic Assertive Community Treatment (FACT) teams, to bolster treatment compliance and reduce recidivism.

c. Collaborating with the University of North Carolina School of Government to develop proposed clinical workflows, transport guidance, and bench cards that ensure successful referrals across all agencies.

d. The update of electronic examination forms, affidavits, and petitions to capture consistent, high-quality data statewide.



e. Strategies to increase data sharing between DHHS and the eCourts system regarding IVC exams and court proceedings, including the feasibility of a public-facing dashboard and necessary State statutory changes.

f. The feasibility and potential benefits of granting law enforcement access to IVC court records for the purpose of better informing law enforcement procedures and operations.

(2) Any additional information deemed relevant by the Collaboratory to ensure high-quality data collection and data-driven decision making across the involuntary commitment system.

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

PILOT PROGRAM TO USE TELEHEALTH IN JAILS TO COMPLETE IVC FIRST EXAMINATION

SECTION 2.(a) The North Carolina Sheriffs' Association, Inc. (Sheriffs' Association) shall create a proposal for the implementation of a pilot program to utilize telehealth services to conduct first examinations for individuals in custody of county jails. The proposal shall identify jails willing to participate in the program and determine any State funding needed to operate the program.

SECTION 2.(b) No later than March 1, 2027, the Sheriffs' Association shall submit the proposal required by subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public Safety and the Joint Legislative Oversight Committee on Health and Human Services.

PLAN TO UTILIZE MOBILE CRISIS UNITS TO COMPLETE IVC FIRST EXAMINATIONS

SECTION 3.(a) The Local Management Entities/Managed Care Organizations (LME/MCOs) and the Department of Health and Human Services (DHHS) are directed to develop a plan to use mobile crisis units to enhance the efficiency of the involuntary commitment process. In developing this plan, the LME/MCOs and DHHS shall consult with relevant stakeholders. The plan shall include at least all of the following:

(1) The development of a statewide coverage model that uses in-person clinicians or on-call licensed clinicians in mobile crisis units to complete the first examination for involuntary commitment.

(2) Recommendations to improve mobile crisis response.

(3) An analysis of the funding necessary to implement the plan, including costs associated with training and technology.

(4) Any additional information that the LME/MCOs and DHHS deem relevant to improving mobile crisis units.

SECTION 3.(b) No later than October 1, 2026, the LME/MCOs and DHHS shall submit a report on the plan as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

INCREASED TRAINING FOR INVOLUNTARY COMMITMENT EXAMINERS

SECTION 4.(a) The Department of Health and Human Services (DHHS) is directed to evaluate the standardized training program for involuntary commitment examiners for necessary improvements, and to incorporate additional training into the standardized training program for providers who conduct first examinations of individuals in custody of county jails.

SECTION 4.(b) No later than December 1, 2026, DHHS shall submit a report on the standardized training program as required in subsection (a) of this section to the Joint

Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

PLAN TO ADDRESS STAFFING AND BED SHORTAGES IN STATE-OPERATED FACILITIES

SECTION 5.(a) The Department of Health and Human Services (DHHS) is directed to develop a plan to address (i) the ongoing shortage of staffed and available behavioral health beds in State-operated facilities for individuals in crisis, (ii) the staffing deficiencies that limit the use of existing behavioral health bed capacity, (iii) potential use of non-State-operated entities or facilities to provide staffing for or leasing to State-operated facilities, and (iv) contracting for behavioral health beds or staffing as supplementary or alternative to State-operated or staffed beds. In developing this plan, DHHS shall consult with interested parties. The plan shall include at least all of the following:

(1) An evaluation of current staffing models, hiring and recruitment practices, employee retention strategies, and the use of incentive pools.
(2) A review of staffing requirements required by State statute and Joint Commission standards.
(3) Any grant opportunities and other funding mechanisms to support behavioral health bed capacity.
(4) An assessment of opportunities to utilize nongovernmental facilities or entities, whether nonprofit or for-profit.
(5) Any additional information, suggestion, or initiative, DHHS deems relevant to address staffing shortages and the ongoing shortage of available behavioral health beds.

SECTION 5.(b) No later than December 1, 2026, DHHS shall submit a report on the plan as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

STUDY LACK OF USE OF OUTPATIENT COMMITMENT

SECTION 6.(a) The North Carolina Collaboratory (Collaboratory) shall conduct a study on how outpatient commitment may be more effectively used and implemented in the State. In developing this study, the Collaboratory shall consult with relevant stakeholders. The study shall include at least all of the following:

(1) A review of State statutes governing outpatient commitment and the identification of any statutory revisions needed to align the State with best practices in other states.
(2) An examination of barriers that limit the use or effectiveness of outpatient commitment, including the availability of outpatient commitment services statewide.
(3) An assessment of mechanisms currently available to track adherence and monitor compliance, along with proposed methods to strengthen and enhance tracking and monitoring processes.
(4) Any additional issues the Collaboratory determines to be relevant to improving the use and effectiveness of outpatient commitment.

SECTION 6.(b) No later than December 1, 2026, the Collaboratory shall submit a progress report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services. No later than March 1, 2027, the Collaboratory shall submit a final report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services.

BEHAVIORAL HEALTH STATEWIDE CENTRAL AVAILABILITY NAVIGATOR UPDATES (BH SCAN)

SECTION 6.5.(a) The Department of Health and Human Services (DHHS), in consultation with the NC Healthcare Association and the North Carolina Sheriffs' Association, Inc. (Sheriffs' Association), is directed to study the practicality of granting law enforcement access to BH SCAN. DHHS shall report to the Joint Legislative Oversight Committee on Health and Human Services when the study is complete.

SECTION 6.5.(b) DHHS is directed to study the practicality of development and implementation of real-time data availability within BH SCAN.

SECTION 6.5.(c) DHHS shall study the development of a functionality within BH SCAN that would allow authorized users to reserve an available behavioral health bed in real time.

SECTION 6.5.(d) No later than March 1, 2027, DHHS shall submit a report on the study as required in this section to the Joint Legislative Oversight Committee on Health and Human Services.

STUDY LEGAL STANDARDS FOR INVOLUNTARY COMMITMENT AND INCAPACITY TO PROCEED

SECTION 7.(a) The North Carolina Collaboratory (Collaboratory) shall conduct a comprehensive study of the differing legal standards governing involuntary commitment and incapacity to proceed to identify statutory revisions that would enhance each system's effectiveness and advance public safety for all individuals involved. In developing this study, the Collaboratory shall consult with relevant stakeholders. This study shall include recommendations for statutory changes to address inconsistent terminology in the governing statutes and clarify procedures for the transition of individuals between systems.

SECTION 7.(b) No later than December 1, 2026, the Collaboratory shall submit a progress report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services. No later than March 1, 2027, the Collaboratory shall submit a final report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services.

WORKING GROUP TO ADDRESS MENTAL HEALTH AND CRIMINAL JUSTICE SYSTEMS OPERATING AS A "REVOLVING DOOR"

SECTION 8.(a) The North Carolina Department of Health and Human Services (DHHS) shall establish a working group composed of representatives from the Administrative Office of the Courts (AOC), and other stakeholders, to examine the systemic factors contributing to the prevalent "revolving door" pattern in which individuals cycle repeatedly through arrest, detention, or involuntary commitment, only to be released back into the community without sustained stabilization or support. The purpose of the working group is to identify gaps, evaluate current practices, and recommend strategies to interrupt repeated crises and reduce avoidable recidivism, in addition to what has previously been examined and reported pursuant to Section 6.1 of S.L. 2025-27.

SECTION 8.(b) Beginning on January 1, 2027, and quarterly thereafter, DHHS shall report on the findings and recommendations of the working group to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

STUDY THE PROVISION OF MEDICAL AND BEHAVIORAL HEALTH CARE IN JAILS

SECTION 9.(a) The North Carolina Collaboratory (Collaboratory) shall study the provision of medical and behavioral health care delivered in county jails in the State and make recommendations to improve the health care provided to individuals in custody. The

Collaboratory shall consult with relevant stakeholders, including local partners, the North Carolina Sheriffs' Association, Inc., and the Department of Health and Human Services. The study shall include at least all of the following:

(1) A review of intake screening procedures used in county jails for identifying medical and behavioral health conditions.

(2) An examination of current health care provider arrangements, including in-house services, contracted services, hybrid models, or other recommended approaches for delivering care in county jails.

(3) An assessment of policies and practices for responding to behavioral health crises within jail settings.

(4) An evaluation of existing staffing models for medical and behavioral health services in county jails.

(5) The development of recommendations for potential expansion of the North Carolina Safekeeper Program.

(6) Any other information deemed relevant by the Collaboratory to improve the provision of medical and behavioral health care in jails.

SECTION 9.(b) No later than December 1, 2026, the Collaboratory shall submit a progress report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services. No later than March 1, 2027, the Collaboratory shall submit a final report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services.

THE NORTH CAROLINA COLLABORATORY TO STUDY FEASIBILITY OF THE CHANGE OF OPERATION OR ADMINISTRATION OF STATE-OPERATED PSYCHIATRIC HOSPITALS

SECTION 10.(a) The North Carolina Collaboratory (Collaboratory) is directed to explore the feasibility of improving the provision of services at Broughton Hospital, Central Regional Hospital, and Cherry Hospital (collectively, the Hospitals). The Collaboratory is directed to study and offer recommendations about the following:

(1) The feasibility of transferring full operation of the Hospitals from DHHS to another entity.

(2) The feasibility of transferring certain operations of the Hospitals from DHHS to another entity.

(3) Any services that another entity could provide to DHHS to assist DHHS in the provision of services at the Hospitals.

(4) Any other operational or administrative initiatives relating to the provision of services at the Hospitals.

(5) Reviewing and updating any previous studies or recommendations that may be relevant or informative.

(6) Any financial impact (savings or additional costs), any impact on patient outcomes, and any improvement in staffing to result from the implementation of the recommendations provided according to this section.

SECTION 10.(b) The Department of Health and Human Services shall cooperate fully with the Collaboratory in providing any data or assistance necessary for the Collaboratory to complete the research required by subsection (a) of this section.

SECTION 10.(c) The Collaboratory shall seek the assistance of the University of North Carolina Health Care System (UNC Health) in conducting the studies required by subsection (a) of this section. UNC Health shall offer any assistance requested by the Collaboratory and shall make recommendations for the Collaboratory to include in the Collaboratory's reports.

SECTION 10.(d) No later than December 1, 2026, the Collaboratory shall submit a progress report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services. No later than March 1, 2027, the Collaboratory shall submit a final report on the study as required in subsection (a) of this section to the Joint Legislative Oversight Committee on Health and Human Services.

MODIFY OUTPATIENT COMMITMENT

SECTION 11.(a) G.S. 122C-261(d) reads as rewritten:

"(d) If the affiant is a commitment examiner, who is filing a petition and affidavit for an involuntary commitment in a county that has not implemented an electronic filing system approved by the Director of the Administrative Office of the Courts, all of the following apply:

…

(3) If the commitment examiner recommends outpatient commitment according to the criteria for outpatient commitment set forth in G.S. 122C-263(d)(1) and the clerk or magistrate finds probable cause to believe that the respondent meets the criteria for outpatient commitment, the clerk or magistrate shall issue an order that a hearing before a district court judge be held to determine whether the respondent will be involuntarily committed. The commitment examiner shall contact the LME/MCO that serves the county where the respondent resides or the LME/MCO that coordinated services for the respondent to inform the LME/MCO that the respondent has been scheduled for an appointment with an outpatient treatment ~~physician or center.~~ provider. The commitment examiner shall provide the respondent with written notice of any scheduled appointment and the name, address, and telephone number of the proposed outpatient treatment ~~physician or center.~~provider.

…."

SECTION 11.(b) G.S. 122C-263 reads as rewritten:

"**§ 122C-263. Duties of law enforcement officer; first examination.**

…

(d) After the conclusion of the examination the commitment examiner shall make the following determinations:

(1) If the commitment examiner finds all of the following, the commitment examiner shall so show on the examination report and shall recommend outpatient commitment:

a. The respondent has a mental illness.

b. The respondent is reasonably determined to be capable of surviving safely in the ~~community with available supervision from family, friends, or others.~~community, without posing a danger to others, when engaged in treatment for the respondent's mental illness.

c. Based on the respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11).

d. The respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision to seek voluntarily or comply with recommended treatment.

e. The respondent has a history of declining or nonadherence to prescribed treatment by a licensed treatment provider and one or more of the following, occurring within the relevant past:

1. A demonstrated history of prior violent convictions.
2. Repeated violations of a civil protective order.

3. Repeated incarcerations.
4. Repeated involuntary inpatient psychiatric hospitalizations.

f. The respondent is scheduled to be discharged from an inpatient hospital setting or released from a county jail or state prison. An individual residing in a noninstitutional setting that meets all other criteria set forth in sub-subdivisions a. through e. of this subdivision may be subject to outpatient commitment within the court's discretion.

In addition, the commitment examiner shall show the name, address, and telephone number of the proposed outpatient treatment ~~physician or center~~ provider in accordance with subsection (f) of this section. The person designated in the order to provide transportation shall return the respondent to the respondent's regular residence or, with the respondent's consent, to the home of a consenting individual located in the originating county, and the respondent shall be released from custody.

…

(e) The findings of the commitment examiner and the facts on which they are based shall be in writing in all cases. The commitment examiner shall send a copy of the findings to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours of the time that it was signed, the physician or eligible psychologist shall also communicate his findings to the clerk by telephone.

(f) When outpatient commitment is recommended, the commitment examiner, if different from the proposed outpatient treatment ~~physician or center,~~ provider, shall contact the LME/MCO that serves the county where the respondent resides or the LME/MCO that coordinated services for the respondent to inform the LME/MCO that the respondent is being recommended for outpatient commitment. The commitment examiner shall give the respondent a written notice listing the name, address, and telephone number of the proposed outpatient treatment ~~physician or center.~~provider.

(g) The commitment examiner, at the completion of the examination, shall provide the respondent with specific information regarding the next steps that will occur."

SECTION 11.(c) G.S. 122C-265 reads as rewritten:

"**§ 122C-265. Outpatient commitment; examination and treatment pending hearing.**

(a) If a respondent, who has been recommended for outpatient commitment by [a] commitment examiner different from the proposed outpatient treatment physician or center, fails to appear for examination by the proposed outpatient treatment physician or center at the designated time, the physician or center shall notify the clerk of superior court who shall issue an order to a law enforcement officer to take the respondent into custody and take him immediately to the outpatient treatment physician or center for evaluation. The custody order is valid throughout the State. The law-enforcement officer may wait during the examination and return the respondent to his home after the examination.

(b) The examining commitment examiner or the proposed outpatient treatment ~~physician or center~~ provider may prescribe to the respondent reasonable and appropriate medication and treatment that are consistent with accepted medical standards pending the district court hearing.

(c) In no event may a respondent released on a recommendation that he or she meets the outpatient commitment criteria be physically forced to take medication or forcibly detained for treatment pending a district court hearing.

(c1) The outpatient treatment provider shall examine the respondent and develop an initial outpatient treatment plan. The plan shall include, at a minimum, the specific services to be provided, including medications as indicated, the recommended frequency of participation in services, the name of the provider who has agreed to provide the services, the arrangements made for the initial contact with each service provider, and any other relevant information.

(d) If at any time pending the district court hearing the outpatient treatment ~~physician or center~~ provider determines that the respondent does not meet the criteria of G.S. 122C-263(d)(1), the physician shall release the respondent and notify the clerk of court and the proceedings shall be terminated.

…."

SECTION 11.(d) G.S. 122C-267 reads as rewritten:

"**§ 122C-267. Outpatient commitment; district court hearing.**

(a) A hearing shall be held in district court within 10 days of the day the respondent is taken into custody pursuant to G.S. 122C-261(e). Upon its own motion or upon motion of the proposed outpatient treatment physician or the respondent, the court may grant a continuance of not more than five days.

(b) The respondent shall be present at the hearing. A subpoena may be issued to compel the respondent's presence at a hearing. The petitioner and the proposed outpatient treatment physician or his designee may be present and may provide testimony.

(c) Certified copies of reports and findings of commitment examiners and medical records of previous and current treatment are admissible in evidence. The initial treatment plan required by G.S. 122C-265(c1) shall be admitted into evidence and incorporated into any order for outpatient commitment.

(d) At the hearing to determine the necessity and appropriateness of outpatient commitment, the respondent need not, but may, be represented by counsel. However, if the court determines that the legal or factual issues raised are of such complexity that the assistance of counsel is necessary for an adequate presentation of the merits or that the respondent is unable to speak for himself, the court may continue the case for not more than five days and order the appointment of counsel for an indigent respondent. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services.

(e) Hearings may be held at the area facility in which the respondent is being treated, if it is located within the judge's district court district as defined in G.S. 7A-133, or in the judge's chambers. A hearing may not be held in a regular courtroom, over objection of the respondent, if in the discretion of a judge a more suitable place is available.

(f) The hearing shall be closed to the public unless the respondent requests otherwise.

(g) A copy of all documents admitted into evidence and a transcript of the proceedings shall be furnished to the respondent on request by the clerk upon the direction of a district court judge. If the client is indigent, the copies shall be provided at State expense.

(h) To support an outpatient commitment order, the court is required to find by clear, cogent, and convincing evidence that the respondent meets the criteria specified in G.S. 122C-263(d)(1). The court shall record the facts which support its findings and shall show on the order the ~~center or physician~~ outpatient treatment provider who is responsible for the care and treatment of the respondent as well as the LME/MCO, or an alternative as determined by the Department, responsible for the management and supervision of the respondent's outpatient commitment."

SECTION 11.(e) G.S. 122C-271 reads as rewritten:

"**§ 122C-271. Disposition.**

(a) If a commitment examiner has recommended outpatient commitment and the respondent has been released pending the district court hearing, the court may make one of the following dispositions:

(1) If the court finds by clear, cogent, and convincing evidence that the respondent ~~has a mental illness; that the respondent is capable of surviving safely in the community with available supervision from family, friends, or others; that based on respondent's treatment history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined in G.S. 122C-3(11); and that the~~

~~respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision to seek voluntarily or comply with recommended treatment,~~ meets the criteria set forth in G.S. 122C-263(d)(1), it may order outpatient commitment for a period not in excess of ~~90~~ 180 days. The initial treatment plan shall be incorporated into the court's order. The order shall state that the respondent must comply with the treatment plan, including any subsequent updates made to the plan by the outpatient provider in consultation with the patient, family members or other natural supports with client consent, and any other relevant treatment providers. The order shall include instructions to the responsible outpatient treatment provider and the LME/MCO, or an alternative as determined by the Department, regarding their monitoring and supervision duties under G.S. 122C-273.

(2) If the court does not find that the respondent meets the criteria of commitment set out in subdivision (1) of this subsection, the respondent shall be discharged and the proposed outpatient ~~physician center~~ treatment provider shall be so notified.

(3) Before ordering any outpatient commitment under this subsection, the court shall make findings of fact as to the availability of outpatient treatment from an outpatient treatment ~~physician or center~~ provider that has agreed to accept the respondent as a client of outpatient treatment ~~services.~~ services, and the availability and consent to accept the respondent as a client by all providers of the services listed in the initial treatment plan. The court shall show on the order the outpatient treatment ~~physician or center~~ provider and the LME/MCO, or an alternative as determined by the Department, that is to be responsible for the management and supervision of the respondent's outpatient ~~commitment.~~ commitment, and provide instructions regarding their duties for such monitoring and supervision under G.S. 122C-273. If the designated outpatient treatment ~~physician or center~~ provider will be ~~monitoring and supervising the respondent's outpatient commitment~~ working pursuant to a contract for services with an LME/MCO, the court shall show on the order the identity of the LME/MCO. The clerk of court shall send a copy of the outpatient commitment order to the designated outpatient treatment ~~physician or center~~ provider and to the respondent client or the legally responsible person. The clerk of court shall also send a copy of the order to that LME/MCO. Copies of outpatient commitment orders sent by the clerk of court to an outpatient treatment ~~center or physician~~ provider under this section, including orders sent to an LME/MCO, shall be sent by the most reliable and expeditious means, within 48 hours of the hearing.

(b) If the respondent has been held in a 24-hour facility pending the district court hearing pursuant to G.S. 122C-268, the court may make one of the following dispositions:

(1) If the court finds by clear, cogent, and convincing evidence that the respondent ~~has a mental illness; that the respondent is capable of surviving safely in the community with available supervision from family, friends, or others; that based on respondent's psychiatric history, the respondent is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness as defined by G.S. 122C-3(11); and that the respondent's current mental status or the nature of the respondent's illness limits or negates the respondent's ability to make an informed decision voluntarily to seek or comply with recommended treatment,~~ meets the criteria set forth in G.S. 122C-263(d)(1), it may order outpatient commitment for a

period not in excess of ~~90~~ 180 days. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the commitment order shall so show. The initial treatment plan required by G.S. 122C-265(c1) shall be prepared by staff at the 24-hour facility in cooperation with the outpatient treatment providers who will serve the respondent. The initial treatment plan shall be admitted into evidence and shall be incorporated into the court's order. The order shall state that the respondent is required to cooperate and comply with the treatment plan including any subsequent updates made to the plan by the outpatient provider in consultation with the patient, family members or other natural supports with client consent, and any other relevant treatment providers. The order shall include instructions to the responsible outpatient treatment provider and the LME/MCO, or an alternative as determined by the Department, regarding their monitoring and supervision duties under G.S. 122C-273.

(2) If the court finds by clear, cogent, and convincing evidence that the respondent has a mental illness and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., it may order inpatient commitment at a 24-hour facility described in G.S. 122C-252 for a period not in excess of 90 days. However, no respondent found to have both an intellectual disability and a mental illness may be committed to a State, area, or private facility for individuals with intellectual disabilities. An individual who has a mental illness and is dangerous to self, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., may also be committed to a combination of inpatient and outpatient commitment at both a 24-hour facility and an outpatient treatment ~~physician or center~~ provider for a period not in excess of ~~90 days.~~ 180 days, however the inpatient stay cannot exceed 90 days. If the commitment proceedings were initiated as the result of the respondent's being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the commitment order shall so show. If the court orders inpatient commitment for a respondent who is under an outpatient commitment order, the outpatient commitment is terminated; and the clerk of the superior court of the county where the district court hearing is held shall send a notice of the inpatient commitment to the clerk of superior court where the outpatient commitment was being supervised. The clerk of court shall send a copy of the inpatient commitment order to the designated inpatient treatment physician or center and to the respondent client or the legally responsible person. The clerk of court shall also send a copy of the order to that LME/MCO. Copies of inpatient commitment orders sent by the clerk of court to an inpatient treatment center or physician under this section, including orders sent to an LME/MCO, shall be sent by the most reliable and expeditious means, within 48 hours of the hearing.

(3) If the court does not find that the respondent meets either of the commitment criteria set out in subdivisions (1) and (2) of this subsection, the respondent shall be discharged, and the facility in which the respondent was last a client shall be so notified.

(4) Before ordering any outpatient commitment, the court shall make findings of fact as to the availability of outpatient treatment from an outpatient treatment ~~physician or center~~ provider that has agreed to accept the respondent as a client

of outpatient treatment services. The court shall also show on the order the outpatient treatment ~~physician or center~~ provider who is to be responsible for the care of the respondent and the LME/MCO, or an alternative as determined by the Department, responsible for the management and supervision of the respondent's outpatient ~~commitment.~~ commitment, and provide instructions regarding duties for such monitoring and supervision under G.S. 122C-273. When an outpatient commitment order is issued for a respondent held in a 24-hour facility, the court may order the respondent held at the facility for no more than 72 hours in order for the facility to notify the designated outpatient treatment ~~physician or center~~ provider of the treatment needs of the respondent. The clerk of court in the county where the facility is located shall send a copy of the outpatient commitment order to the designated outpatient treatment ~~physician or center~~ provider and to the respondent or the legally responsible person. ~~If the designated outpatient treatment physician or center shall be monitoring and supervising the respondent's outpatient commitment pursuant to a contract for services with an LME/MCO, the clerk of court shall show on the order the identity of the LME/MCO.~~ The clerk of court shall show on the order the identity of the LME/MCO, or an alternative as determined by the Department, responsible for the monitoring and supervising of the respondent's outpatient commitment and send a copy of the order to the LME/MCO. Copies of outpatient commitment orders sent by the clerk of court to an outpatient treatment ~~center or physician~~ provider pursuant to this subdivision, including orders sent to an LME/MCO, shall be sent by the most reliable and expeditious means, within 48 hours of the hearing. If the outpatient commitment will be supervised in a county other than the county where the commitment originated, the court shall order venue for further court proceedings to be transferred to the county where the outpatient commitment will be supervised. Upon an order changing venue, the clerk of superior court in the county where the commitment originated shall transfer the file to the clerk of superior court in the county where the outpatient commitment is to be supervised.

(c) If the respondent was found not guilty by reason of insanity and has been held in a 24-hour facility pending the court hearing held pursuant to G.S. 122C-268.1, the court may make one of the following dispositions:

(1) If the court finds that the respondent has not proved by a preponderance of the evidence that the respondent no longer has a mental illness or that the respondent is no longer dangerous to others, it shall order inpatient treatment at a 24-hour facility for a period not to exceed 90 days.

(2) If the court finds that the respondent has proven by a preponderance of the evidence that the respondent no longer has a mental illness or that the respondent is no longer dangerous to others, the court shall order the respondent discharged and released."

SECTION 11.(f) G.S. 122C-273 reads as rewritten:

"**§ 122C-273. Duties for follow-up on commitment order.**

(a) Unless prohibited by Chapter 90 of the General Statutes, if the commitment order directs outpatient treatment, the outpatient treatment ~~physician~~ provider may prescribe or ~~administer, or the center may administer,~~ administer to the respondent reasonable and appropriate medication and treatment that are consistent with accepted medical standards.

(1) If the respondent fails to comply or clearly refuses to comply with all or part of the ~~prescribed treatment,~~ treatment plan, the ~~physician, the physician's designee, or the center~~ outpatient treatment provider shall make all reasonable

effort to solicit the respondent's compliance. These efforts shall be documented and reported to the LME/MCO, or an alternative as determined by the Department, responsible for the monitoring and supervising of the respondent's outpatient commitment. The LME/MCO, or an alternative as determined by the Department, shall then report to the court with a request for a supplemental hearing.

(1a) The LME/MCO shall maintain a list of all individuals on outpatient commitment and ensure the individual's care manager, as applicable, is aware of the treatment plan. The Department shall have access to the lists of individuals subject to outpatient commitment orders. The Department shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

(2) If the respondent fails to comply, but does not clearly refuse to comply, with all or part of the prescribed treatment after reasonable effort to solicit the respondent's compliance, ~~the physician, the physician's designee, or the center~~ the outpatient treatment provider or its designee or the LME/MCO, or an alternative as determined by the Department, responsible for the monitoring and supervising of the respondent's outpatient commitment may request the court to order the respondent taken into custody for the purpose of examination. Upon receipt of this request, the clerk shall issue an order to a law-enforcement officer to take the respondent into custody and to take him immediately to the designated outpatient treatment ~~physician or center~~ provider for examination. The custody order is valid throughout the State. The law-enforcement officer shall turn the respondent over to the custody of the ~~physician or center~~ provider who shall conduct the examination and then release the respondent. The law-enforcement officer may wait during the examination and return the respondent to his home after the examination. An examination conducted under this subsection in which a physician or eligible psychologist determines that the respondent meets the criteria for inpatient commitment may be substituted for the first examination required by G.S. 122C-263 if the clerk or magistrate issues a custody order within six hours after the examination was performed.

(3) In no case may the respondent be physically forced to take medication or forcibly detained for treatment unless he poses an immediate danger to himself or others. In such cases inpatient commitment proceedings shall be initiated.

(4) At any time that the outpatient treatment ~~physician or center~~ provider finds that the respondent no longer meets the criteria set out in G.S. 122C-263(d)(1), the ~~physician or center~~ provider shall so notify the court and the case shall be terminated; provided, however, if the respondent was initially committed as a result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the designated outpatient treatment ~~physician or center~~ provider shall notify the clerk that discharge is recommended. The clerk shall calendar a supplemental hearing as provided in G.S. 122C-274 to determine whether the respondent meets the criteria for outpatient commitment.

(5) Any individual who has knowledge that a respondent on outpatient commitment has become dangerous to himself, as defined by G.S. 122C-3(11)a., and others, as defined in G.S. 122C-3(11)b., may initiate

a new petition for inpatient commitment as provided in this Part. If the respondent is committed as an inpatient, the outpatient commitment shall be terminated and notice sent by the clerk of court in the county where the respondent is committed as an inpatient to the clerk of court of the county where the outpatient commitment is being supervised.

(b) If the respondent on outpatient commitment intends to move or moves to another county within the State, the designated ~~outpatient treatment physician or center~~ LME/MCO shall request that the clerk of court in the county where the outpatient commitment is being supervised calendar a supplemental hearing.

(c) If the respondent moves to another state or to an unknown location, the designated outpatient treatment ~~physician or center~~ provider or the LME/MCO, or an alternative as determined by the Department, shall notify the clerk of superior court of the county where the outpatient commitment is supervised and the outpatient commitment shall be terminated.

(d) If the commitment order directs inpatient treatment, the physician attending the respondent may administer to the respondent reasonable and appropriate medication and treatment that are consistent with accepted medical standards. The attending physician shall release or discharge the respondent in accordance with G.S. 122C-277."

SECTION 11.(g) G.S. 122C-274 reads as rewritten:

"**§ 122C-274. Supplemental hearings.**

(a) Upon receipt of a request for a supplemental hearing, the clerk shall calendar a hearing to be held within 14 days and notify, at least 72 hours before the hearing, the petitioner, the respondent, ~~his~~ the respondent's attorney, if any, and the designated outpatient treatment ~~physician or center.~~ provider and LME/MCO. The respondent shall be notified at least 72 hours before the hearing by personally serving on him an order to appear. Other persons shall be notified as provided in G.S. 122C-264(c).

(b) The procedures for the hearing shall follow G.S. 122C-267.

(c) In supplemental hearings for alleged noncompliance, the court shall determine whether the respondent has failed to comply and, if so, the causes for noncompliance. If the court determines that the respondent has failed or refused to comply it may:

(1) Upon finding probable cause to believe that the respondent is mentally ill and dangerous to himself, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b., order an examination by the same or different ~~physician or eligible psychologist~~ commitment examiner as provided in G.S. 122C-263(c) in order to determine the necessity for continued outpatient or inpatient commitment;

(2) Reissue or change the outpatient commitment order in accordance with ~~G.S. 122C-271; or~~G.S. 122C-271.

(3) Discharge the respondent from the order and dismiss the case.

(4) Issue an order for inpatient commitment upon finding by clear, cogent, and convincing evidence that the respondent is mentally ill and dangerous to himself, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b. A finding of noncompliance with an outpatient commitment order pursuant to this section shall create a rebuttable presumption that the respondent is dangerous to himself, as defined in G.S. 122C-3(11)a., or others, as defined in G.S. 122C-3(11)b.

(d) At the supplemental hearing for a respondent who has moved or intends to move to another county, the court shall determine if the respondent meets the criteria for outpatient commitment set out in G.S. 122C-263(d)(1). If the court determines that the respondent no longer meets the criteria for outpatient commitment, it shall discharge the respondent from the order and dismiss the case. If the court determines that the respondent continues to meet the criteria for outpatient commitment, it shall continue the outpatient commitment but shall designate ~~a~~

~~physician or center~~ an outpatient treatment provider at the respondent's new residence to be responsible for the ~~management or supervision~~ care and treatment of the respondent's outpatient ~~commitment.~~ commitment and shall also designate the LME/MCO, or an alternative as determined by the Department, responsible for monitoring and supervision. The court shall order the respondent to appear for treatment at the address of the newly designated outpatient treatment ~~physician or center~~ provider and shall order venue for further court proceedings under the outpatient commitment to be transferred to the new county of supervision. Upon an order changing venue, the clerk of court in the county where the outpatient commitment has been supervised shall transfer the records regarding the outpatient commitment to the clerk of court in the county where the commitment will be supervised. Also, the clerk of court in the county where the outpatient commitment has been supervised shall send a copy of the court's order directing the continuation of outpatient treatment under new supervision to the newly designated outpatient treatment ~~physician or center.~~provider and the LME/MCO, or an alternative as determined by the Department.

(e) At any time during the term of an outpatient commitment order, a respondent may apply to the court for a supplemental hearing for the purpose of discharge from the order. The application shall be made in writing by the respondent to the clerk of superior court of the county where the outpatient commitment is being supervised. At the supplemental hearing the court shall determine whether the respondent continues to meet the criteria specified in G.S. 122C-263(d)(1). The court may either reissue or change the commitment order or discharge the respondent and dismiss the case.

(f) At supplemental hearings requested pursuant to G.S. 122C-277(a) for transfer from inpatient to outpatient commitment, the court shall determine whether the respondent meets the criteria for either inpatient or outpatient commitment. If the court determines that the respondent continues to meet the criteria for inpatient commitment, it shall order the continuation of the original commitment order. If the court determines that the respondent meets the criteria for outpatient commitment, it shall order outpatient commitment for a period of time not in excess of ~~90~~ 180 days. If the court finds that the respondent does not meet either criteria, the respondent shall be discharged and the case dismissed."

SECTION 11.(h) G.S. 122C-275 reads as rewritten:

"**§ 122C-275. Outpatient commitment; rehearings.**

(a) Fifteen days before the end of the initial or subsequent periods of outpatient commitment if the outpatient treatment ~~physician or center~~ provider determines that the respondent continues to meet the criteria specified in G.S. 122C-263(d)(1), ~~he~~ the outpatient treatment provider shall so notify the clerk of superior court of the county where the outpatient commitment is supervised. If the respondent no longer meets the criteria, the ~~physician~~ outpatient treatment provider shall so notify the clerk who shall dismiss the case; provided, however, if the respondent was initially committed as a result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the ~~physician or center~~ outpatient treatment provider shall notify the clerk that discharge is recommended. The clerk, at least 10 days before the end of the commitment period, on order of the district court, shall calendar the rehearing.

(b) Notice and procedures of rehearings are governed by the same procedures as initial hearings, and the respondent has the same rights he had at the initial hearing including the right to appeal.

(c) If the court finds that the respondent no longer meets the criteria of G.S. 122C-263(d)(1), it shall unconditionally discharge ~~him.~~ the respondent. A copy of the discharge order shall be furnished by the clerk to the designated outpatient treatment ~~physician or center.~~ provider and the LME/MCO. If the respondent continues to meet the criteria of G.S. 122C-263(d)(1), the court may order outpatient commitment for an additional period not in excess of 180 days. The court order shall comply with the requirements of G.S. 122C-271."

SECTION 11.(i) G.S. 122C-276 reads as rewritten:

"**§ 122C-276. Inpatient commitment; rehearings for respondents other than insanity acquittees.**

(a) Fifteen days before the end of the initial inpatient commitment period if the attending physician determines that commitment of a respondent beyond the initial period will be necessary, he shall so notify the clerk of superior court of the county in which the facility is located. The clerk, at least 10 days before the end of the initial period, on order of a district court judge of the district court district as defined in G.S. 7A-133 in which the facility is located, shall calendar the rehearing. If the respondent was initially committed as the result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and respondent was found incapable of proceeding, the clerk shall also notify the chief district court judge, the clerk of superior court, and the district attorney in the county in which the respondent was found incapable of proceeding of the time and place of the hearing.

(b) Fifteen days before the end of the initial treatment period of a respondent who was initially committed as a result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, having been found incapable of proceeding, if the attending physician determines that commitment of the respondent beyond the initial period will not be necessary, he shall so notify the clerk of superior court who shall schedule a rehearing as provided in subsection (a) of this section.

(c) Subject to the provisions of G.S. 122C-269(c), rehearings shall be held as authorized in G.S. 122C-268(g). The judge is a ~~judge of the district court~~ district court judge of the district court district as defined in G.S. 7A-133 in which the facility is located or a district court judge temporarily assigned to that district.

(d) Notice and proceedings of rehearings are governed by the same procedures as initial hearings and the respondent has the same rights he had at the initial hearing including the right to appeal.

(e) At rehearings the court may make the same dispositions authorized in G.S. 122C-271(b) except a second commitment order may be for an additional period not in excess of 180 days.

(f) Fifteen days before the end of the second commitment period and annually thereafter, the attending physician shall review and evaluate the condition of each respondent; and if he determines that a respondent is in continued need of inpatient commitment or, in the alternative, in need of outpatient commitment, or a combination of both, he shall so notify the respondent, his counsel, and the clerk of superior court of the county, in which the facility is located. Unless the respondent through his counsel files with the clerk a written waiver of his right to a rehearing, the clerk, on order of a district court judge of the district in which the facility is located, shall calendar a rehearing for not later than the end of the current commitment period. The procedures and standards for the rehearing are the same as for the first rehearing. No third or subsequent inpatient recommitment order shall be for a period longer than one year.

(g) At any rehearings the court has the option to order outpatient commitment for a period not in excess of 180 days in accordance with the criteria specified in G.S. 122C-263(d)(1) and following the procedures as specified in this Article. The court order shall comply with the requirements of G.S. 122C-271."

SECTION 11.(j) G.S. 122C-54(d) reads as rewritten:

"(d) Except as otherwise provided in this section, any individual seeking confidential information contained in the court files or the court records of a proceeding made pursuant to Article 5 of this Chapter may file a written motion in the cause setting out why the information is needed. A district court judge may issue an order to disclose the confidential information sought if he finds the order is appropriate under the circumstances and if he finds that it is in the best interest of the individual admitted or committed or of the public to have the information disclosed.

Counsel for the respondent and counsel for the State in the commitment hearing may receive access to the court file without filing a motion or obtaining a court order. A judge presiding over a criminal case that initiated the Article 5 proceeding may have access to the file without filing a motion.

The Department shall be granted access to all relevant data, court orders, records, or other relevant information, including any confidential information, related to its duties and responsibilities pursuant to Article 5 of this Chapter. The Department shall keep all information collected under this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Administrative Office of the Courts Director shall set parameters for sharing information with the Department.

Judicial officials determining whether a criminal defendant may be released before trial pursuant to G.S. 15A-533 may have access to the defendant's records of proceedings made pursuant to Article 5 of this Chapter for the purposes of determining whether a criminal defendant has been involuntarily committed within the previous three years."

SECTION 11.(k) This section becomes effective December 1, 2026, and applies to proceedings that occur on or after that date.

DEPARTMENT OF INFORMATION TECHNOLOGY

SECTION 12.(a) G.S. 90-414.4 reads as rewritten:

"**§ 90-414.4. Required participation in HIE Network for some providers.**

…

(c) Exemption for Certain Records. – ~~Providers~~ Until the Authority provides written notice as required by subsection (c2) of this section, providers with patient records that are subject to the disclosure restrictions of 42 C.F.R. § 2 are exempt from the requirements of subsection (b) of this section but only with respect to the patient records subject to these disclosure restrictions. Providers shall comply with the requirements of subsection (b) of this section with respect to all other patient records. A pharmacy shall only be required to submit claims data pertaining to services rendered to Medicaid and other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds.

(c1) Exemption from Twice Daily Submission. – A pharmacy shall only be required to submit claims data once daily through the HIE Network using pharmacy industry standardized formats.

(c2) 42 C.F.R. Records. – Notwithstanding subsection (b) of this section, patient records protected by 42 C.F.R. § 2 shall be disclosed through the HIE Network when the Authority has provided written notice to participating entities that data protected by 42 C.F.R. § 2 can be disclosed consistent with the HIE's statutory authority.

…

(f) Confidentiality of Data. – All data submitted to or through the HIE Network containing protected health information, personally identifying information, or a combination of these, that are in the possession of the Department of Information Technology or any other agency of the State are confidential and shall not be defined as public records under G.S. 132-1. This subsection shall not be construed to prohibit the disclosure of any such data as otherwise permitted under federal law."

SECTION 12.(b) G.S. 90-414.8 reads as rewritten:

"**§ 90-414.8. North Carolina Health Information Exchange Advisory Board.**

(a) Creation and Membership. – There is hereby established the North Carolina Health Information Exchange Advisory Board within the Department of Information Technology. The Advisory Board shall consist of the following ~~12~~ 13 members:

(1) The following four members appointed by the President Pro Tempore of the Senate:

a. A licensed physician in good standing and actively practicing in this State.
b. A patient representative.
c. An individual with technical expertise in health data analytics.
d. A representative of a behavioral health provider.

(2) The following four members appointed by the Speaker of the House of Representatives:
a. A representative of a critical access hospital.
b. A representative of a federally qualified health center.
c. An individual with technical expertise in health information technology.
d. A representative of a health system or integrated delivery network.

(3) The following three ex officio, nonvoting members:
a. The State Chief Information Officer or a designee.
b. The Director of GDAC or a designee.
c. The Secretary of Health and Human Services, or a designee.

(4) The following two ex officio, voting ~~member:~~members:
a. The Executive Administrator of the State Health Plan for Teachers and State Employees, or a designee.
b. The Deputy Secretary for the State's Medicaid program, or a designee.

…."

IMPLEMENT INPATIENT CAPACITY RESTORATION PROGRAM

SECTION 13.(a) G.S. 15A-532 reads as rewritten:

"**§ 15A-532. Persons authorized to determine conditions for release.**

Judicial officials may determine conditions for release of persons in proceedings over which they are presiding, in accordance with this Article. Pretrial release of a defendant found to be incapable to proceed is governed by this Article as well as Article 56 of this Chapter."

SECTION 13.(b) G.S. 15A-1001 reads as rewritten:

"**§ 15A-1001. No proceedings when defendant mentally incapacitated; ~~exception.~~exception; State policy; capacity restoration services; immunity from liability.**

(a) No person may be tried, convicted, sentenced, or punished for a crime when by reason of mental illness or defect he or she is unable to understand the nature and object of the proceedings against ~~him,~~ him or her, to comprehend his or her own situation in reference to the proceedings, or to assist in his or her defense in a rational or reasonable manner. This condition is hereinafter referred to as "incapacity to proceed."

(b) This section does not prevent the court from going forward with any motions which can be handled by counsel without the assistance of the defendant.

(c) It is State policy that persons found incapable to proceed should be provided with capacity restoration services whenever feasible and appropriate and that such services should be carried out in as efficient and timely a manner as possible in order to meet the ends of justice for victims, for the public, and for those persons who stand accused of crimes.

(d) Unless otherwise specified in this Article, capacity restoration services are directed toward a defendant gaining capacity to stand trial and may include any or all of the following, as applicable and based upon available resources:

(1) Educational instruction regarding the criminal justice system, to include assisting the defendant in understanding his or her role in the proceedings.

(2) Psychoeducational instruction regarding the nature of a defendant's diagnosed condition and the resources and coping skills necessary to mitigate capacity deficits caused by the condition.

(3) Except as prohibited by G.S. 15A-1010, other mental health treatment or counseling which is medically reasonable and appropriate.

(e) No individual, facility, agency, or entity, or officials, staff, and employees of these individuals and entities, responsible for the custody, transportation, examination, admission, management, supervision, instruction, treatment, or release of a defendant under this Article and who is not grossly negligent, is civilly liable, personally or otherwise, for actions or omissions arising from these responsibilities or for the actions or omissions of a defendant. This immunity is in addition to any other legal immunity from liability to which these individuals, facilities, agencies, or entities may be entitled and applies to actions performed in connection with, or arising out of, the custody, transportation, examination, commitment, admission, management, supervision, instruction, treatment, or release of any defendant pursuant to or under the authority of this Article or otherwise."

SECTION 13.(c) G.S. 15A-1002 reads as rewritten:

"**§ 15A-1002. Determination of incapacity to proceed; evidence; temporary commitment; temporary orders.**

(a) The question of the capacity of the defendant to proceed may be raised at any time on motion by the prosecutor, the defendant, the defense counsel, or the court. The motion shall detail the specific conduct that leads the moving party to question the defendant's capacity to proceed.

(b) (1) When the capacity of the defendant to proceed is questioned, the court shall hold a hearing to determine the defendant's capacity to proceed. If an examination is ordered pursuant to subdivision (1a) or (2) of this subsection, the hearing shall be held after the examination. Reasonable notice shall be given to the defendant and prosecutor, and the State and the defendant may introduce evidence.

(1a) In the case of a defendant charged with a misdemeanor or felony, the court may appoint one or more impartial medical experts, including forensic evaluators approved under rules of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, to examine the defendant and return a written report describing the present state of the defendant's mental health. Reports so prepared are admissible at the hearing. The court may call any expert so appointed to testify at the hearing with or without the request of either party.

(2) At any time in the case of a defendant charged with a felony, the court may order the defendant to a State facility for the mentally ill for observation and treatment for the period, not to exceed 60 days, necessary to determine the defendant's capacity to proceed. If a defendant is ordered to a State facility without first having an examination pursuant to subsection (b)(1a) of this section, the judge shall make a finding that an examination pursuant to this subsection would be more appropriate to determine the defendant's capacity. The sheriff shall return the defendant to the county when notified that the evaluation has been completed. The director of the facility shall direct his report on defendant's condition to the defense attorney and to the clerk of superior court, who shall bring it to the attention of the court. The report is admissible at the hearing.

(3) Repealed by Session Laws 1989, c. 486, s. 1.

(4) A presiding district or superior court judge of this State who orders an examination pursuant to subdivision (1a) or (2) of this subsection shall order the release of relevant confidential information to the examiner, including, but not limited to, the warrant or indictment, arrest records, the law enforcement incident report, the defendant's criminal record, jail records, any prior medical and mental health records of the defendant, and any school records of the

defendant after providing the defendant with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the hearing of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The records may be surrendered to the court for in camera review if surrender is necessary to make the required determinations. The records shall be withheld from public inspection and, except as provided in this subdivision, may be examined only by order of the court.

(b1) The order of the court shall contain findings of fact to support its determination of the defendant's capacity to proceed. The parties may stipulate that the defendant is ~~capable of proceeding~~ capable to proceed but shall not be allowed to stipulate that the defendant lacks capacity to proceed. If the court concludes that the defendant lacks capacity to ~~proceed, proceedings for involuntary civil commitment under Chapter 122C of the General Statutes may be instituted on the basis of the report in either the county where the criminal proceedings are pending or, if the defendant is hospitalized, in the county in which the defendant is hospitalized.~~proceed, the court shall ensure a record of the determination is transmitted to the National Instant Criminal Background Check System, pursuant to G.S. 14-409.43(a)(5), and further proceed pursuant to G.S. 15A-1003.

(b2) Reports made to the court pursuant to this section shall be completed and provided to the court as follows:

(1) The report in a case of a defendant charged with a misdemeanor shall be completed and provided to the court no later than 10 days following the completion of the examination for a defendant who was in custody at the time the examination order was entered and no later than 20 days following the completion of the examination for a defendant who was not in custody at the time the examination order was entered.

(2) The report in the case of a defendant charged with a felony shall be completed and provided to the court no later than 30 days following the completion of the examination.

(3) In cases where the defendant challenges the determination made by the court-ordered examiner or the State facility and the court orders an independent psychiatric examination, that examination and report to the court must be completed within 60 days of the entry of the order by the court.

The court may, for good cause shown, extend the time for the provision of the report to the court for up to 30 additional days. The court may renew an extension of time for an additional 30 days upon request of the State or the defendant prior to the expiration of the previous extension. In no case shall the court grant extensions totaling more than 120 days beyond the time periods otherwise provided in this subsection.

(b3) Any report prepared pursuant to this Article shall include the examiner's opinion whether the defendant is capable or incapable to proceed, to include all relevant observations and findings. If the examiner believes the defendant is not capable to proceed, the report shall further include the following, along with supporting observations and findings:

(1) An opinion concerning the causes of the defendant's mental illness or defect.

(2) An opinion whether the defendant is able to gain capacity in the foreseeable future and whether capacity restoration services would likely aid in the defendant gaining capacity. Local evaluators may not make a recommendation of non-restorability.

(3) Any recommended treatment or education necessary for the defendant to gain capacity, and the availability of such services, if known.

(4) A recommendation of the appropriate clinical setting in which the capacity restoration services may be safely provided to the defendant and any specific treatment needs of the defendant or other factors supporting this recommendation.

(5) Any other opinions or recommendations specifically ordered by the court or which the examiner believes necessary for the court's consideration of the defendant's capacity or potential to gain capacity.

If the examiner is unable to provide any of the required opinions, recommendations, or findings, the reasons therefore shall be clearly stated in the report. The forensic evaluation may be conducted remotely using video-teleconference which permits two-way audio and video transmission between the defendant and the evaluator, unless the evaluator determines there is a clinical need for an in-person evaluation.

(c) The court may make appropriate temporary orders for the confinement or security of the defendant pending the hearing or ruling of the court on the question of the capacity of the defendant to proceed.

(d) Any report made to the court pursuant to this section shall be forwarded to the clerk of superior court in a sealed envelope addressed to the attention of a presiding judge, with a covering statement to the clerk of the fact of the examination of the defendant and any conclusion as to whether the defendant has or lacks capacity to proceed. If the defendant is being held in the custody of the sheriff, the clerk shall send a copy of the covering statement to the sheriff. The sheriff and any persons employed by the sheriff shall maintain the copy of the covering statement as a confidential record. A copy of the full report shall be forwarded to defense counsel or to the defendant if he is not represented by counsel. If the question of the defendant's capacity to proceed is raised at any time, a copy of the full report must be forwarded to the district attorney, as provided in G.S. 122C-54(b). Until such report becomes a public record, the full report to the court shall be kept under such conditions as are directed by the court, and its contents shall not be revealed except the report and the relevant confidential information previously ordered released under subdivision (b)(4) of this section shall be released as follows: (i) to clinicians at the program where the defendant is receiving capacity restoration; (ii) to clinicians designated by the Secretary of Health and Human Services, and (iii) as directed by the court. Any report made to the court pursuant to this section shall not be a public record unless introduced into evidence."

SECTION 13.(d) G.S. 15A-1003 reads as rewritten:

"**§ 15A-1003. ~~Referral of incapable defendant for civil commitment proceedings.~~Procedure upon finding a defendant incapable to proceed.**

(a) When a defendant is found to be incapable of proceeding, the presiding judge, upon such additional hearing, if any, as he determines to be necessary, shall determine whether there are reasonable grounds to believe the defendant meets the criteria for involuntary commitment under Part 7 of Article 5 of Chapter 122C of the General Statutes. If the presiding judge finds reasonable grounds to believe that the defendant meets the criteria, he shall make findings of fact and issue a custody order in the same manner, upon the same grounds and with the same effect as an order issued by a clerk or magistrate pursuant to G.S. 122C-261. Proceedings thereafter are in accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes. If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, the judge's custody order shall require a law-enforcement officer to take the defendant directly to a 24-hour facility as described in ~~G.S. 122C-252;~~ G.S. 122C-252, as space is available; and the order must indicate that the defendant was charged with a violent crime and that he was found incapable of proceeding.

~~(a1) Prior to the dismissal of any charges pursuant to G.S. 15A-1008, if the defendant is not subject to an involuntary commitment order issued pursuant to Part 7 of Article 5 of Chapter 122C of the General Statutes, the court shall make the determinations and findings required by subsection (a) of this section upon motion of the district attorney.~~

~~(b) The court may make appropriate orders for the temporary detention of the defendant pending that proceeding.~~

~~(c) Evidence used at the hearing with regard to capacity to proceed is admissible in the involuntary civil commitment proceedings.~~

(b) When the court finds, pursuant to G.S. 15A-1002, that a defendant is incapable to proceed to trial and that the defendant is reasonably likely to gain capacity to proceed within the foreseeable future, the court shall order the defendant to enroll and participate in a capacity restoration program, as defined in G.S. 122C-256, subject to the following conditions:

(1) If the defendant is eligible for pretrial release, enrollment and participation in a community-based capacity restoration program shall be imposed as an additional condition of release, so long as such program is reasonably available based on geographic location, program capacity, and any other relevant factor. Additional conditions may be imposed in the court's discretion pursuant to Article 26 of this Chapter, specifically including the power to place the defendant in the custody of a designated person or organization agreeing to supervise the defendant.

(2) If the defendant is held in pretrial custody, the defendant shall be required to enroll and participate in a detention center capacity restoration program, as defined in G.S. 122C-256, if such program is reasonably available.

(3) If the court determines that the most clinically appropriate setting for a defendant to receive capacity restoration services is an inpatient setting other than through civil involuntary commitment, then the court may instead order the defendant to enroll in an inpatient-based capacity restoration program, if such program is reasonably available.

(4) The court shall specify in its order the duration of the defendant's enrollment, up to a maximum initial term of four months, taking into account the defendant's mental condition, the prognosis for the defendant's ability to gain capacity, the nature of the criminal charges, the nature of the capacity restoration program, and any other relevant factor. The term of a defendant's enrollment period does not include wait times for program entry. The initial term of four months may be extended per G.S. 15A-1007(e).

(5) The court shall issue any other orders deemed appropriate to safeguard the defendant and to protect the public, including orders to ensure and provide for the defendant's return for trial in the event the defendant subsequently gains capacity. The court may amend or supplement its orders from time to time as changed conditions require.

(c) If no capacity restoration program is reasonably available to the defendant, or if the court finds that the defendant is expected to gain capacity in the foreseeable future without the need for capacity restoration services, or for other good cause shown, the requirement for referral to such program may be waived, but the court shall issue any further orders as appropriate to safeguard the defendant and to protect the public, including orders to ensure and provide for the defendant's return for trial in the event the defendant subsequently gains capacity. The court may review and modify the defendant's conditions of release. The court may also determine when a supplemental hearing under G.S. 15A-1007 should be held.

(d) If the court finds that the defendant is not reasonably likely to gain capacity to proceed in the foreseeable future, the court shall not order the defendant to receive capacity restoration services but shall instead consider whether dismissal of the charges is required pursuant to

G.S. 15A-1008. The court may further determine when a supplemental hearing under G.S. 15A-1007 should be held to review the defendant's condition. The court may review and modify the defendant's conditions of release as appropriate pending further determination pursuant to G.S. 15A-1008 or supplemental hearing.

(e) In addition to the requirement provided in subsection (b) of this section, the court at any time after the defendant is found incapable to proceed may determine whether there are reasonable grounds to believe the defendant probably has a mental illness and is either (i) dangerous to self or others as defined under G.S. 122C-3 or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness and therefore meets the criteria for involuntary civil commitment. Based upon such findings, the court may issue a custody order in the same manner and with the same effect as an order issued by a clerk or magistrate pursuant to G.S. 122C-261. Proceedings thereafter are in accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes and subject to the following requirements:

(1) Proceedings for involuntary commitment may be initiated on the basis of the report in either the county where the criminal proceedings are pending or, if the defendant is hospitalized, in the county in which the defendant is hospitalized.

(2) If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, the custody order shall require a law enforcement officer to take the defendant directly to a 24-hour facility as described in G.S. 122C-252 as soon as space is available, and the order must indicate that the defendant was charged with a violent crime and that he or she was found incapable to proceed.

(3) The court may make appropriate orders for the temporary detention of the defendant pending the commitment proceedings.

(4) The court may set or modify conditions of pretrial release in the event that the defendant is not involuntarily committed, is discharged or released from involuntary commitment, or is involuntarily committed on an outpatient basis.

(5) Evidence used at the hearing with regard to capacity to proceed is admissible in the involuntary civil commitment proceedings.

(6) Pursuant to G.S. 143B-147, the treatment plan for any defendant involuntarily committed after a finding of incapacity to proceed under this Article shall incorporate methods designed in accordance with best practices to restore the defendant's capacity to proceed for so long as the defendant remains committed pursuant to Chapter 122C of the General Statutes, whether on an inpatient or outpatient basis. However, a defendant's lack of capacity to proceed, standing alone, does not constitute an independent basis for continued civil involuntary commitment."

SECTION 13.(e) G.S. 15A-1004 reads as rewritten:

"~~**§ 15A-1004. Orders for safeguarding of defendant and return for trial.**~~

~~(a) When a defendant is found to be incapable of proceeding, the trial court must make appropriate orders to safeguard the defendant and to ensure his return for trial in the event that he subsequently becomes capable of proceeding.~~

~~(b) If the defendant is not placed in the custody of a hospital or other institution in a proceeding for involuntary civil commitment, appropriate orders may include any of the procedures, orders, and conditions provided in Article 26 of this Chapter, Bail, specifically including the power to place the defendant in the custody of a designated person or organization agreeing to supervise him.~~

~~(c) If the defendant is placed in the custody of a hospital or other institution in a proceeding for involuntary civil commitment, the orders must provide for reporting to the clerk~~

~~if the defendant is to be released from the custody of the hospital or institution. The original or supplemental orders may make provisions as in subsection (b) in the event that the defendant is released. The court shall also order that the defendant shall be examined to determine whether the defendant has the capacity to proceed prior to release from custody. A report of the examination shall be provided pursuant to G.S. 15A-1002. If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, and that charge has not been dismissed, the order must require that if the defendant is to be released from the custody of the hospital or other institution, he is to be released only to the custody of a specified law enforcement agency. If the original or supplemental orders do not specify to whom the respondent shall be released, the hospital or other institution may release the defendant to whomever it thinks appropriate.~~

~~(d) If the defendant is placed in the custody of a hospital or institution pursuant to proceedings for involuntary civil commitment, or if the defendant is placed in the custody of another person pursuant to subsection (b), the orders of the trial court must require that the hospital, institution, or individual report the condition of the defendant to the clerk at the same times that reports on the condition of the defendant-respondent are required under Part 7 of Article 5 of Chapter 122C of the General Statutes, or more frequently if the court requires, and immediately if the defendant gains capacity to proceed. The order must also require the report to state the likelihood of the defendant's gaining capacity to proceed, to the extent that the hospital, institution, or individual is capable of making such a judgment.~~

~~(e) The orders must require and provide for the return of the defendant to stand trial in the event that he gains capacity to proceed, unless the charges have been dismissed pursuant to G.S. 15A-1008, and may also provide for the confinement or pretrial release of the defendant in that event.~~

~~(f) The orders of the court may be amended or supplemented from time to time as changed conditions require.~~

"**§ 15A-1004. Examinations and reports required for defendants lacking capacity.**

(a) When a defendant is enrolled in a capacity restoration program pursuant to G.S. 15A-1003(b), the court shall order the program to do all of the following:

(1) To report to the clerk on the condition of the defendant every 60 days following program entry, and immediately if the defendant gains capacity to proceed, and to include in its report a statement of the likelihood of the defendant's gaining capacity to proceed within the remaining time period of the defendant's enrollment or within a subsequent period of enrollment, if ordered.

(2) To report to the clerk immediately if at any time it appears the defendant is not a suitable candidate for capacity restoration services, requires capacity restoration in a different setting, or poses an unnecessary risk of danger to program personnel.

(b) When a defendant is found incapable to proceed and is placed in the custody or care of a hospital, institution, or provider through a proceeding for involuntary civil commitment, whether on an inpatient or outpatient basis, the trial court's orders shall include all of the following requirements of the hospital, institution, or provider:

(1) A requirement to report to the clerk whenever the defendant will not be involuntarily committed, is to be discharged or released from involuntary commitment, or upon a change in status from involuntary commitment on an inpatient basis to involuntary commitment on an outpatient basis.

(2) A requirement to determine, prior to the defendant's discharge or release from involuntary commitment, whether the defendant has the capacity to proceed to trial and to provide a report of examination in compliance with the reporting

requirements under G.S. 15A-1002 to the extent that the hospital, institution, or individual is capable of making such a judgment.

(3) A requirement to report the condition of the defendant to the clerk at the same times that reports on the condition of the defendant-respondent are required under Part 7 of Article 5 of Chapter 122C of the General Statutes, or more frequently if the court requires, and immediately if the defendant gains capacity to proceed, and to include in the report a statement of the likelihood of the defendant's gaining capacity to proceed.

(4) If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, a requirement that if the defendant is to be released from the custody or care of the hospital, institution, or provider, the defendant is to be released only to the custody of a specified law enforcement agency. If the original or supplemental orders do not specify to whom the respondent shall be released, the hospital, institution, or provider may release the defendant to whomever is determined appropriate.

(c) When a defendant found incapable to proceed is placed in the secure custody of a designated person or organization as a condition of release, the court shall require the supervising person or organization to report to the clerk immediately if it appears that the defendant has gained capacity to proceed. The court may also require a periodic report to the clerk from the supervising person or organization as to the condition of the defendant and the defendant's likelihood of gaining capacity to proceed, to the extent the person or organization is qualified to do so."

SECTION 13.(f) G.S. 15A-1006 reads as rewritten:

"~~**§ 15A-1006. Return of defendant for trial upon gaining capacity.**~~

~~If a defendant who has been determined to be incapable of proceeding, and who is in the custody of an institution or an individual, has been determined by the institution or individual having custody to have gained capacity to proceed, the individual or institution shall provide written notification to the clerk in the county in which the criminal proceeding is pending. The clerk shall provide written notification to the district attorney, the defendant's attorney, and the sheriff. The sheriff shall return the defendant to the county for a supplemental hearing pursuant to G.S. 15A-1007, if conducted, and trial and hold the defendant for a supplemental hearing and trial, subject to the orders of the court entered pursuant to G.S. 15A-1004.~~

"**§ 15A-1006. Return of defendant for supplemental hearing and trial upon gaining capacity; discharge and return of defendant from involuntary commitment.**

(a) When the clerk is notified that a defendant has likely gained capacity to proceed to trial, the clerk shall provide written notification to the district attorney and the defendant's attorney within 72 hours, and the matter shall proceed to a supplemental hearing pursuant to G.S. 15A-1007, if conducted, and trial upon the court's determination that the defendant has gained capacity to proceed. If the defendant is currently enrolled in any court-ordered capacity restoration program pursuant to G.S. 15A-1003(b), this requirement shall remain in effect pending the supplemental hearing.

(b) When a defendant who is charged with a violent crime, including a crime involving assault with a deadly weapon, has likely gained capacity to proceed while involuntarily committed, the clerk shall provide further written notification to the sheriff, who shall return the defendant to the county for a supplemental hearing pursuant to G.S. 15A-1007, if conducted, and trial and hold the defendant for a supplemental hearing and trial, subject to orders of the court entered pursuant to G.S. 15A-1003. Any defendant held in custody under this subsection may be required to participate in capacity restoration services pending the supplemental hearing, if reasonably available."

SECTION 13.(g) G.S. 15A-1007 reads as rewritten:

"**§ 15A-1007. Supplemental capacity hearings.**

~~(a) When it has been reported to the court that a defendant has gained capacity to proceed, or when the defendant has been determined by the individual or institution having custody of him to have gained capacity and has been returned for trial, in accordance with G.S. 15A-1004(e) and G.S. 15A-1006, the clerk shall notify the district attorney. Upon receiving the notification, the district attorney shall calendar the matter for hearing at the next available term of court but no later than 30 days after receiving the notification. The court may hold a supplemental hearing to determine whether the defendant has capacity to proceed. The court may take any action at the supplemental hearing that it could have taken at an original hearing to determine the capacity of the defendant to proceed.~~

~~(b) The court may hold a supplemental hearing any time upon its own determination that a hearing is appropriate or necessary to inquire into the condition of the defendant.~~

~~(c) The court must hold a supplemental hearing if it appears that any of the conditions for dismissal of the charges have been met.~~

~~(d) If the court determines in a supplemental hearing that a defendant has gained the capacity to proceed, the case shall be calendared for trial at the earliest practicable time. Continuances that extend beyond 60 days after initial calendaring of the trial shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance.~~

(a) Upon receiving notification from the clerk under G.S. 15A-1006 that a defendant has likely gained capacity to proceed, the district attorney shall calendar the matter for hearing within 30 days of receiving the notification or at the next available term of court. The court may hold a supplemental hearing to determine whether the defendant has capacity to proceed. The parties may stipulate to the defendant's capacity but not to the defendant's lack of capacity. If the parties stipulate to a finding of capacity, the judge may review new evidence, including new evaluations, and make a determination of capacity without holding a hearing.

(b) If the court determines that a defendant has gained the capacity to proceed, the case shall be calendared for trial at the earliest practicable time. Continuances that extend beyond 60 days after initial calendaring of the trial shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance. The court may order the defendant to receive capacity restoration services pending further criminal proceedings if the court finds that such services are reasonably available and reasonably necessary to ensure the defendant's capacity does not deteriorate.

(c) The court shall hold a supplemental capacity hearing within a reasonable time after any of the following:

(1) When the defendant has been ordered to participate in a capacity restoration program pursuant to G.S. 15A-1003(b) and the program has not reported to the clerk that the defendant has gained capacity to proceed prior to the end of the defendant's enrollment period.

(2) Every four months if, pursuant to G.S. 15A-1003(b), the court has previously waived the requirement for capacity restoration services.

(3) Every four months if, pursuant to G.S. 15A-1003(c), the defendant has been found not likely to gain capacity within the foreseeable future and the charges have not already been disposed.

(4) When it appears to the court that any of the conditions for disposition under G.S. 15A-1008 have been met.

(d) Upon motion of the district attorney, the defendant's attorney, or the court's own motion, the court may hold a supplemental hearing any time the court determines it appropriate or necessary to inquire into the condition of the defendant or to consider matters relevant to disposition under G.S. 15A-1008.

(e) The court may take any action upon supplemental hearing that the court could have taken at the initial hearing on a defendant's capacity to proceed.

(1) A defendant may be ordered to participate in a capacity restoration program pursuant to G.S. 15A-1003(b) whenever the court finds upon supplemental hearing that it is reasonably likely the defendant will gain capacity to proceed within the foreseeable future. The court may also extend the time for capacity restoration services in further increments of no more than four months per extension, not counting wait times for program entry, upon a finding that the defendant's continued participation in a capacity restoration program is reasonably likely to restore the defendant's capacity. A defendant who is not charged with a felony offense may not be required to participate in a capacity restoration program under G.S. 15A-1003(b) with respect to the same charges for a total period exceeding 12 months, not inclusive of wait times for program entry. Additionally, a defendant's enrollment in a capacity restoration program will not operate to preclude dismissal of the charges when any condition of G.S. 15A-1008 is found to be met.

(2) At any supplemental hearing when the court finds reasonable grounds that a defendant who lacks capacity to proceed probably has a mental illness and is either (i) dangerous to self or others as defined under G.S. 122C-3 or (ii) in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness, the court may proceed with a referral for civil commitment pursuant to G.S. 15A-1003(a).

(3) A defendant released or discharged from involuntary civil commitment but who is found to still lack capacity to proceed is subject to appropriate supplemental court orders pursuant to G.S. 15A-1003 if the charges are not dismissed pursuant to G.S. 15A-1008, including orders to participate in a capacity restoration program pursuant to G.S. 15A-1003(b)."

SECTION 13.(h) G.S. 15A-1008 reads as rewritten:

"**§ 15A-1008. Dismissal of ~~charges.~~charges; referral of defendant for civil commitment proceedings upon dismissal.**

(a) When a defendant lacks capacity to proceed, the court shall dismiss the charges upon the earliest of the following occurrences:

(1) When it appears to the satisfaction of the court that the defendant will not gain capacity to proceed.

(2) When as a result of incarceration, involuntary commitment to an inpatient facility, or other court-ordered confinement, the defendant has been substantially deprived of his liberty for a period of time equal to or in excess of the maximum term of imprisonment permissible for prior record Level VI for felonies or prior conviction Level III for misdemeanors for the most serious offense charged.

(3) Upon the expiration of a period of five years from the date of determination of incapacity to proceed in the case of misdemeanor charges and a period of 10 years in the case of felony charges.

(b) A dismissal entered pursuant to subdivision (2) of subsection (a) of this section shall be without leave.

(c) A dismissal entered pursuant to subdivision (1) or (3) of subsection (a) of this section shall be issued without prejudice to the refiling of the charges.

(d) Dismissal of criminal charges pursuant to this section shall be upon motion of the prosecutor or the defendant or upon the court's own motion and shall not be expunged pursuant to G.S. 15A-146.

(e) Upon motion of the district attorney prior to dismissal of the charges under this section, the court shall determine whether there are reasonable grounds to believe the defendant meets the criteria for involuntary commitment under Part 7 of Article 5 of Chapter 122C of the General Statutes. If the court finds reasonable grounds to believe that the defendant meets the criteria, the court shall make findings of fact and issue a custody order in the same manner, upon the same grounds and with the same effect as an order issued by a clerk or magistrate pursuant to G.S. 122C-261. Proceedings thereafter, upon dismissal of the criminal charges, are in accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes and with G.S. 15A-1003(e)(1), (2), (3), and (5). If the defendant was charged with a violent crime, including a crime involving assault with a deadly weapon, the judge's custody order shall require a law enforcement officer to take the defendant directly to a 24-hour facility as described in G.S. 122C-252, and the order must indicate that the defendant was charged with a violent crime and that he was found incapable of proceeding. The court may make appropriate orders for the temporary detention of the defendant pending that proceeding. Evidence used at the hearing with regard to capacity to proceed is admissible in the involuntary civil commitment proceedings."

SECTION 13.(i) Article 56 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1010. Compelled medication for capacity restoration generally prohibited; limited conditions when court may order compelled medication of certain defendants charged with serious felony offenses.**

(a) Except as authorized under subsection (b) of this section, a defendant found incapable to proceed to trial may not be compelled to take any medication for the purpose of gaining or maintaining capacity.

(b) Upon the State's motion or upon the court's own motion, the court may order compelled medication of an uncooperative defendant for purposes of gaining or maintaining capacity to proceed if the court affirmatively finds by clear and convincing evidence all of the following, in writing, based on the particular circumstances presented and specific to the defendant in question:

(1) The defendant is charged with a serious offense against the person or property, and there are no apparent special circumstances which lessen the importance of the government's interest in bringing the defendant to trial.
(2) The proposed treatment is reasonable and appropriate for the mental health condition of the defendant and its proposed use is consistent with accepted medical standards.
(3) The proposed treatment will not cause an unnecessary risk to the defendant's physical or mental health.
(4) The proposed treatment is necessary insofar as it is substantially likely to render the defendant competent for trial and less intrusive means would not further this interest.
(5) The proposed treatment is substantially unlikely to have side effects that undermine the fairness of the defendant's trial.

(c) The administration of any treatment ordered pursuant to this section must be at the direction and under the supervision of a licensed medical professional. However, the proposed course of treatment shall be reviewed and authorized by the court prior to implementation, and the court may impose any other conditions necessary to protect the rights of the defendant and to ensure the safety of others, not inconsistent with accepted medical standards.

(d) The court's treatment order may provide for multiple alternative courses of treatment in the discretion of the licensed medical professional treating the defendant, so long as each such alternative course of treatment is reviewed by the court and found to meet the requirements of subsection (b) of this section.

(e) The court may review and amend previous compelled medication orders upon motion of the district attorney, the defendant's attorney, the court's own motion, or upon notice by the treatment provider to the clerk that a change in the approved course or alternative courses of treatment is warranted.

(f) This section does not preclude medical treatment of persons involuntarily committed as authorized under Chapter 122C of the General Statutes or medical treatment authorized under any other provision of law.

(g) Treatment ordered pursuant to this section is subject to G.S. 15A-1001(e)."

SECTION 13.(j) G.S. 122C-54(b) reads as rewritten:

"(b) If an individual is a defendant in a criminal case and a mental examination of the defendant has been ordered by the court as provided in G.S. 15A-1002, the facility shall send the results or the report of the mental examination to the clerk of court, to the district attorney or prosecuting officer, and to the attorney of record for the defendant as provided in G.S. 15A-1002(d). The report shall contain ~~a treatment recommendation, if any, and an opinion as to whether there is a likelihood that the defendant will gain the capacity to proceed.~~all matters required under G.S. 15A-1002(b3)."

SECTION 13.(k) G.S. 122C-256 reads as rewritten:

"**§ 122C-256. Capacity restoration pilot programs.**

(a) The following definitions apply in this section:

(1) CBCRP. – Community-based capacity restoration program.

(2) DCCRP. – Detention center capacity restoration program.

(3) IBCRP. – Inpatient-based capacity restoration program.

(b) Community-Based Capacity Restoration Program. – The Department or an LME/MCO may contract for three or more CBCRPs. CBCRPs may be county-based or regionally based. If regionally based, a CBCRP shall align with the State-operated psychiatric hospital within closest proximity. The Department may consult with one or more LME/MCOs for the purposes of contracting for CBCRPs under this subsection.

(c) Detention Center Capacity Restoration Program. – The Department or an LME/MCO, in consultation and with the consent of relevant sheriffs, may contract for up to three or more DCCRPs. DCCRPs may be county-based or regionally based. All county sheriffs choosing to participate in a regional program must enter into an operational agreement with the sheriff hosting the regional program prior to referring defendants to the program. A regionally based DCCRP shall align with the State-operated psychiatric hospital within closest proximity. The Department may consult with one or more LME/MCOs for the purposes of contracting for DCCRPs under this subsection.

(d) Inpatient-Based Capacity Restoration Program. – IBCRPs are programs offered by inpatient psychiatric facilities with the expertise to provide capacity restoration programming. These programs shall be available within the State psychiatric hospital system. Inpatient treatment is intended for defendants that are likely to benefit from inpatient level of care but who may or may not meet involuntary commitment criteria."

SECTION 13.(*l*) The Department of Health and Human Services shall by December 1, 2026, adopt guidelines for treatment of individuals who are referred pursuant to G.S. 15A-1003 to a detention center capacity restoration program, community-based capacity restoration program, or inpatient-based capacity restoration program, as defined in G.S. 122C-256, as amended by this act, incorporating best practices to restore the individual's capacity to proceed to trial in criminal court. The adopted guidelines shall be published to the official website of the Department of Health and Human Services.

SECTION 13.(m) G.S. 122C-273(a) reads as rewritten:

"(a) Unless prohibited by Chapter 90 of the General Statutes, if the commitment order directs outpatient treatment, the outpatient treatment physician may prescribe or administer, or

the center may administer, to the respondent reasonable and appropriate medication and treatment that are consistent with accepted medical standards.

(1) If the respondent fails to comply or clearly refuses to comply with all or part of the prescribed treatment, the physician, the physician's designee, or the center shall make all reasonable effort to solicit the respondent's compliance. These efforts shall be documented and reported to the court with a request for a supplemental hearing.

(2) If the respondent fails to comply, but does not clearly refuse to comply, with all or part of the prescribed treatment after reasonable effort to solicit the respondent's compliance, the physician, the physician's designee, or the center may request the court to order the respondent taken into custody for the purpose of examination. Upon receipt of this request, the clerk shall issue an order to a law-enforcement officer to take the respondent into custody and to take him immediately to the designated outpatient treatment physician or center for examination. The custody order is valid throughout the State. The law-enforcement officer shall turn the respondent over to the custody of the physician or center who shall conduct the examination and then release the respondent. The law-enforcement officer may wait during the examination and return the respondent to his home after the examination. An examination conducted under this subsection in which a physician or eligible psychologist determines that the respondent meets the criteria for inpatient commitment may be substituted for the first examination required by G.S. 122C-263 if the clerk or magistrate issues a custody order within six hours after the examination was performed.

(3) In no case may the respondent be physically forced to take medication or forcibly detained for treatment unless he poses an immediate danger to himself or others. In such cases inpatient commitment proceedings shall be initiated. <u>The administration of medication pursuant to court order for a criminal defendant found incapable to proceed to trial is governed by the provisions of G.S. 15A-1010 and not by this section.</u>

(4) At any time that the outpatient treatment physician or center finds that the respondent no longer meets the criteria set out in G.S. 122C-263(d)(1), the physician or center shall so notify the court and the case shall be terminated; provided, however, if the respondent was initially committed as a result of conduct resulting in his being charged with a violent crime, including a crime involving an assault with a deadly weapon, and the respondent was found incapable of proceeding, the designated outpatient treatment physician or center shall notify the clerk that discharge is recommended. The clerk shall calendar a supplemental hearing as provided in G.S. 122C-274 to determine whether the respondent meets the criteria for outpatient commitment.

(5) Any individual who has knowledge that a respondent on outpatient commitment has become dangerous to himself, as defined by G.S. 122C-3(11)a., and others, as defined in G.S. 122C-3(11)b., may initiate a new petition for inpatient commitment as provided in this Part. If the respondent is committed as an inpatient, the outpatient commitment shall be terminated and notice sent by the clerk of court in the county where the respondent is committed as an inpatient to the clerk of court of the county where the outpatient commitment is being supervised."

SECTION 13.(n) This section becomes effective December 1, 2026, and applies to any initial or supplemental capacity hearing conducted on or after that date.

MODIFY IRYNA'S LAW EFFECTIVE DATE

SECTION 14.(a) Subsection (j) of Section 1 of S.L. 2025-93, as amended by subsection (b) of Section 5.3 of S.L. 2025-97, reads as rewritten:

"**SECTION 1.(j)** Subsections (a), (b), (d), and (e) of this section, and subsection (b) of G.S. 15A-533, as amended in subsection (c) of this section, become effective December 1, 2025, and apply to persons appearing before a judicial official for the determination of pretrial release conditions on or after that date. Subsection (b1) of G.S. 15A-533, as enacted by subsection (c) of this section, becomes effective ~~December 1, 2026,~~ July 1, 2028, and applies to persons appearing before a judicial official for the determination of pretrial release conditions on or after that date. The remainder of this section is effective when it becomes law."

SECTION 14.(b) Subsection (b) of Section 9.5 of S.L. 2025-93 reads as rewritten:

"**SECTION 9.5.(b)** This section becomes effective ~~December 1, 2027,~~ July 1, 2028, and applies to custody orders issued on or after that date."

EFFECTIVE DATE

SECTION 15. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of July, 2026.

s/ Rachel Hunt
President of the Senate

s/ Destin Hall
Speaker of the House of Representatives

____
Josh Stein
Governor

Approved __________.m. this ______________ day of ___________________, 2026