Proposed technical correction:

SECTION #. Section 5 of S.L. 2020-90 is repealed.

Explanation: Section 5(a) of S.L. 2020-90 uses coded bill drafting to amend Section 11.5(c) of House Bill 593 (enacted as S.L. 2020-83) to add the phrase "the District Attorney may". S.L. 2020-90, however, set out a different version of the language, which appeared in an earlier edition of the bill (Fifth Edition), resulting in the addition of "garbage language". This proposed technical correction repeals the S.L. 2020-90 provision to eliminate the "garbage language".

Background:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2020-83
HOUSE BILL 593

AN ACT TO MAKE VARIOUS MODIFICATIONS TO THE GENERAL STATUTES RELATED TO JUVENILE CRIME PREVENTION COUNCILS, INDIVIDUALS UNDER EIGHTEEN IN CUSTODY, THE STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM, CRIMINAL COURT FEES, AND RADIOLOGICAL EMERGENCY PLANNING FEES; TO APPROPRIATE FUNDS; TO CREATE A REGISTRY REQUIREMENT REVIEW FOR CERTAIN SEX OFFENDERS; AND TO CLARIFY DECLARATION PUBLICATION.

The General Assembly of North Carolina enacts:

…

PART VI. SEX OFFENDER REGISTRY REQUIREMENT REVIEW

SECTION 11.5.(a) Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-208.12B. Registration requirement review.**

(a) When a person is notified by a sheriff that the person may be required to register based on an out-of-state conviction as provided in G.S. 14-208.6(4)(b), or a federal conviction as provided in G.S. 14-208.6(4)(c), that is substantially similar to a North Carolina sexually violent offense, or an offense against a minor, the sheriff shall notify the person of the right to petition the court for a judicial determination of the requirement to register. Notification shall be served on the person and the district attorney, as provided in G.S. 1A-1, Rule 4(j), or delivery by any other means that the person consented to in writing. The person may petition the court to contest the requirement to register by filing a petition to obtain a judicial determination as to whether the person is required to register under this Article. The judicial review shall be by a superior court judge presiding in the district where the petition is filed. The review under this section is limited to determine whether or not the person's out-of-state or federal conviction is substantially similar to a reportable conviction, as defined in G.S. 14-208.6(4)(a).

(b) The petition shall be filed in the county in which the person resides using a form created by the Administrative Office of the Courts. The petition must be filed with the clerk of court within 30 days of the person's receipt of the notification of the requirement to register from the sheriff. The person filing the petition must serve a copy of the petition on the office of the district attorney and the sheriff in the county where the person resides within three days of filing the petition with the clerk of court. The petition shall be calendared at the next regularly scheduled term of superior court. At the first setting, the petitioner must be advised of the right to have counsel present at the hearing and to the appointment of counsel if the petitioner cannot afford to retain counsel. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services.

(c) At the hearing, the district attorney has the burden to prove by a preponderance of the evidence, that the person's out-of-state or federal conviction is for an offense, which if committed in North Carolina, was substantially similar to a sexually violent offense, or an offense against a minor. The person may present evidence in support of the lack of substantial similarity between the out-of-state or federal conviction, but may not contest the validity of the conviction. The court may review copies of the relevant out-of-state or federal criminal law and compare the elements of the out-of-state or federal offense to those purportedly similar to a North Carolina offense.

(d) After reviewing the petition, receiving any and all evidence presented by the parties at the hearing, considering any arguments of the parties, the presiding superior court judge shall determine whether the out-of-state or federal conviction is substantially similar to a reportable conviction. If the presiding superior court judge determines the out-of-state or federal conviction is substantially similar to a reportable conviction, the judge shall order the person to register as a sex offender pursuant to this Article. If the presiding superior court judge determines the out-of-state or federal conviction is not substantially similar to a reportable conviction, the judge shall indicate in an order that the person is not required to register as a sex offender pursuant to this Article, based on the out-of-state or federal conviction presented in the hearing. The judge shall prepare a written order and shall direct such order be filed with the clerk of court and copied to the district attorney and the sheriff.

(e) A person who properly files a petition in accordance with this provision shall not be required to register with the sheriff until such petition is decided by the court. No person who properly files a petition in accordance with this provision may be charged with failing to register or any other violation applicable to registrants under this Article, while such petition is pending judicial review as provided in this section.

(f) Any person who is notified by the sheriff of the person's requirement to register as a result of an out-of-state or federal conviction and fails to file a petition under this provision within 30 days of receipt of the notification shall be deemed to have waived judicial review of the person's requirement to register.

(g) A person notified of a requirement to register as a result of a conviction for an offense under G.S. 14-208.6(4)(b) or G.S. 14-208.6(4)(c), who willfully (i) does not file a petition under this section and (ii) does not register in accordance with this Article, shall be in violation of G.S. 14-208.11(a)(1) and shall be guilty of a Class F Felony as provided in that section.

(h) This section shall not be used in lieu of the process to terminate the period of registration pursuant to G.S. 14-208.12A.

(i) No sheriff, or employee of a sheriffs' office, district attorney's office, or the North Carolina State Bureau of Investigation shall incur any civil or criminal liability under North Carolina law as the result of the performance of official duties under this Article."

SECTION 11.5.(b) G.S. 7A-451 reads as rewritten:

"**§ 7A-451. Scope of entitlement.**

(a) An indigent person is entitled to services of counsel in the following actions and proceedings:

…

(19) A proceeding involving a review of the sex offender registration requirement as provided in G.S. 14-208.12B.

…."

SECTION 11.5.(c) The State Bureau of Investigation, in consultation with the Office of the Attorney General, shall provide each elected District Attorney with a list of the class members subject to the Honorable Judge Terrence W. Boyle's order in Grabarczyk v. Stein, that resides in a county in that District Attorney's district. An elected District Attorney must decide to handle each case, or have the Attorney General handle the case. If requested by an elected District Attorney, the Attorney General shall make preliminary determinations, and represent the State in any proceedings created by this section. Each District Attorney or Attorney General shall review the prior substantially similar determination for every one of the class members. If the District Attorney or Attorney General make a preliminary determination that the individual's out-of-state or federal conviction is substantially similar to a North Carolina offense that would have required registration at the time of offense, they shall notify the person and the sheriff in the county where the individual resides. The District Attorney or Attorney General may petition the court in that county for judicial review of the registration.

SECTION 11.5.(d) The Department of Public Safety shall notify any individual registered on August 1, 2020, whose registration is solely based on a substantially similar determination for an out-of-state or federal conviction, of the right to contest the registration requirement and the process provided in G.S. 14-208.12B, as enacted by subsection (a) of this section.

SECTION 11.5.(e) This section becomes effective August 1, 2020, and applies to any individual notified of the right to contest required registration as a sex offender on or after that date.

…

EFFECTIVE DATE

SECTION 12.1. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2020.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 5:37 p.m. this 1st day of July, 2020

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2020-90
HOUSE BILL 902

AN ACT TO PROVIDE THAT THE DIVISION OF PURCHASE AND CONTRACT OF THE DEPARTMENT OF ADMINISTRATION SHALL REVIEW PROTESTS ON CONTRACTS AND RECEIVE REPORTS ON EMERGENCY PURCHASES BY STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES IF THE DOLLAR AMOUNT EXCEEDS THE EXPENDITURE BENCHMARK ESTABLISHED BY THE SECRETARY OF ADMINISTRATION; TO ELIMINATE OBSOLETE LANGUAGE RELATING TO FURNITURE CONTRACTS FROM THE GENERAL STATUTES; TO PROVIDE PROCUREMENT SIMPLIFICATION AND INCREASED ACCOUNTABILITY; TO CLARIFY PLAN REVIEW, CODE ENFORCEMENT, AND CREATE AN EXEMPTION FROM THE STATE PROPERTY FIRE INSURANCE FUND FOR CERTAIN BUILDINGS WITHIN NC GLOBAL TRANSPARK; TO CREATE A PRISON SOFTWARE MANAGEMENT PILOT PROGRAM; TO CLARIFY THE AUTHORITY OF OWNERS ASSOCIATIONS TO IMPOSE CHARGES FOR STATEMENTS OF UNPAID ASSESSMENTS; TO CLARIFY DISTRICT ATTORNEY DISCRETION IN REGISTRATION REQUIREMENT REVIEWS; AND TO PROVIDE LIMITED IMMUNITY FROM COVID-19 RELATED CLAIMS ARISING FROM THE REOPENING OF PRIVATELY OWNED COMMUNITY SWIMMING POOLS IN ACCORDANCE WITH EXECUTIVE ORDERS ISSUED BY THE GOVERNOR DURING THE COVID-19 STATE OF EMERGENCY.

The General Assembly of North Carolina enacts:

…

PART V. CLARIFY DISTRICT ATTORNEY DISCRETION IN REGISTRATION REQUIREMENT REVIEWS

SECTION 5.(a) If House Bill 593, 2019 Regular Session, becomes law, then Section 11.5(c) of that act reads as rewritten:

"**SECTION 11.5.(c)** The State Bureau of Investigation, in consultation with the Office of the Attorney General, shall provide each elected District Attorney with a list of the class members subject to the Honorable Judge Terrence W. Boyle's order in Grabarczyk v. Stein, that resides in a county in that District Attorney's district. Each District Attorney or his or her designees, shall review the prior substantially similar determination for every one of those individuals. If the District Attorney or his or her designees, make a preliminary determination that the individual's out-of-state or federal conviction is substantially similar to a North Carolina offense that would have required registration at the time of offense, the Office of the District Attorney shall notify the

person, and the sheriff in the county where the individual resides; and the District Attorney may petition the court in that county for judicial review of the registration requirement."

SECTION 5.(b) Part V of this act becomes effective August 1, 2020, and applies to any individual notified of the right to contest required registration as a sex offender on or after that date.

…

SECTION 7. Except as otherwise provided, this act is effective when it becomes law. In the General Assembly read three times and ratified this the 26th day of June, 2020.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:55 a.m. this 2nd day of July, 2020

S.L. 2020-83 (House Bill 593) version	S.L. 2020-90 (House Bill 902) version
SECTION 11.5.(c) The State Bureau of Investigation, in consultation with the Office of the Attorney General, shall provide each elected District Attorney with a list of the class members subject to the Honorable Judge Terrence W. Boyle's order in Grabarczyk v. Stein, that resides in a county in that District Attorney's district. An elected District Attorney must decide to handle each case, or have the Attorney General handle the case. If requested by an elected District Attorney, the Attorney General shall make preliminary determinations, and represent the State in any proceedings created by this section. Each District Attorney or Attorney General shall review the prior substantially similar determination for every one of the class members. If the District Attorney or Attorney General make a preliminary determination that the individual's out-of-state or federal conviction is substantially similar to a	**SECTION 5.(a)** If House Bill 593, 2019 Regular Session, becomes law, then Section 11.5(c) of that act reads as rewritten: "**SECTION 11.5.(c)** The State Bureau of Investigation, in consultation with the Office of the Attorney General, shall provide each elected District Attorney with a list of the class members subject to the Honorable Judge Terrence W. Boyle's order in Grabarczyk v. Stein, that resides in a county in that District Attorney's district. Each District Attorney or his or her designees, shall review the prior substantially similar determination for every one of those individuals. If the District Attorney or his or her designees, make a preliminary determination that the individual's out-of-state or federal conviction is substantially similar to a North Carolina offense that would have required registration at the time of offense, the Office of the District Attorney shall notify the person, and the sheriff in the county where the individual resides; and the District Attorney may

North Carolina offense that would have required registration at the time of offense, they shall notify the person and the sheriff in the county where the individual resides. The District Attorney or Attorney General may petition the court in that county for judicial review of the registration.	petition the court in that county for judicial review of the registration requirement."

Excerpt from Fifth Edition of House Bill 593:

SECTION 11.5(c) The State Bureau of Investigation, in consultation with the Office of the Attorney General, shall provide each elected District Attorney with a list of the class members subject to the Honorable Judge Terrence W. Boyle's order in Grabarczyk v. Stein, that resides in a county in that District Attorney's district. Each District Attorney or his or her designees, shall review the prior substantially similar determination for every one of those individuals. If the District Attorney or his or her designees, make a preliminary determination that the individual's out-of-state or federal conviction is substantially similar to a North Carolina offense that would have required registration at the time of offense, the Office of the District Attorney shall notify the person, and the sheriff in the county where the individual resides; and petition the court in that county for judicial review of the registration requirement.