

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 369\*  
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Senate Judiciary I Committee Substitute Adopted 6/26/14  
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Short Title: Criminal Law Changes.

(Public)

Sponsors:

Referred to:

March 21, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO VARIOUS CRIMINAL LAWS AND TO CLARIFY TO  
3 WHICH LOCAL GOVERNMENT CONTRACTS E-VERIFY APPLIES.

4 The General Assembly of North Carolina enacts:

5  
6 **MODIFY EXPUNCTIONS**

7 **SECTION 1.(a)** G.S. 15A-145.5(a) reads as rewritten:

8 "**§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

9 (a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent  
10 felony" means any misdemeanor or felony except the following:

- 11 (1) A Class A through G felony or a Class A1 misdemeanor.  
12 (2) An offense that includes assault as an essential element of the offense.  
13 (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of  
14 the General Statutes, whether or not the person is currently required to  
15 register.  
16 (4) Any of the following sex-related or stalking offenses: G.S. 14-27.7A(b),  
17 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3,  
18 14-277.3A, 14-321.1.  
19 (5) Any felony offense in Chapter 90 of the General Statutes where the offense  
20 involves methamphetamines, heroin, or possession with intent to sell or  
21 deliver or sell and deliver cocaine.  
22 (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for  
23 which punishment was determined pursuant to G.S. 14-3(c).  
24 (7) An offense under G.S. 14-401.16.  
25 (7a) An offense under G.S. 14-54(a), 14-54(a1), or 14-56; except that a person  
26 remains eligible to receive an expunction under this section if the offense  
27 was committed on or before the person's 21st birthday.  
28 (8) Any felony offense in which a commercial motor vehicle was used in the  
29 commission of the offense.  
30 (9) Any offense that is an attempt to commit an offense described in  
31 subdivisions (1) through (8) of this subsection."



1           **SECTION 1.(b)** This section becomes effective December 1, 2014, and applies to  
2 petitions filed on or after that date, but petitions filed prior to that date are not abated by this  
3 act.  
4

5 **CONDITIONAL DISCHARGE AUTHORIZED**

6           **SECTION 2.(a)** G.S. 15A-1341 reads as rewritten:

7 **"§ 15A-1341. Probation generally.**

8           (a) Use of Probation. – Unless specifically prohibited, a person who has been convicted  
9 of any criminal offense may be placed on probation as provided by this Article if the class of  
10 offense of which the person is convicted and the person's prior record or conviction level under  
11 Article 81B of this Chapter authorizes a community or intermediate punishment as a type of  
12 sentence disposition or if the person is convicted of impaired driving under G.S. 20-138.1.

13           (a1) Deferred Prosecution. – A person who has been charged with a Class H or I felony  
14 or a misdemeanor may be placed on probation as provided in this Article on motion of the  
15 defendant and the prosecutor if the court finds each of the following facts:

- 16           (1) Prosecution has been deferred by the prosecutor pursuant to written  
17 agreement with the defendant, with the approval of the court, for the purpose  
18 of allowing the defendant to demonstrate his good conduct.
- 19           (2) Each known victim of the crime has been notified of the motion for  
20 probation by subpoena or certified mail and has been given an opportunity to  
21 be heard.
- 22           (3) The defendant has not been convicted of any felony or of any misdemeanor  
23 involving moral turpitude.
- 24           (4) The defendant has not previously been placed on probation and so states  
25 under oath.
- 26           (5) The defendant is unlikely to commit another offense other than a Class 3  
27 misdemeanor.

28           (a2) Deferred Prosecution for Purpose of Drug Treatment Court Program. – A defendant  
29 eligible for a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the  
30 General Statutes may be placed on probation if the court finds that prosecution has been  
31 deferred by the prosecutor, with the approval of the court, pursuant to a written agreement with  
32 the defendant, for the purpose of allowing the defendant to participate in and successfully  
33 complete the Drug Treatment Court Program.

34           ~~(a3) Deferred Prosecution-Conditional Discharge for Prostitution. – A defendant whose~~  
35 ~~prosecution is deferred pursuant to G.S. 14-204(e) for whom the court orders a conditional~~  
36 ~~discharge pursuant to G.S. 14-204(b) may be placed on probation as provided in this Article.~~

37           (a4) Conditional Discharge. – Whenever a person pleads guilty to or is found guilty of a  
38 Class H or I felony or a misdemeanor, the court may, on motion of the defendant and the  
39 prosecutor, and without entering a judgment of guilt and with the consent of the person, defer  
40 further proceedings and place the person on probation as provided in this Article for the  
41 purpose of allowing the defendant to demonstrate the defendant's good conduct, if the court  
42 finds each of the following facts:

- 43           (1) Each known victim of the crime has been notified of the motion for  
44 probation by subpoena or certified mail and has been given an opportunity to  
45 be heard.
- 46           (2) The defendant has not been convicted of any felony or of any misdemeanor  
47 involving moral turpitude.
- 48           (3) The defendant has not previously been placed on probation and so states  
49 under oath.
- 50           (4) The defendant is unlikely to commit another offense other than a Class 3  
51 misdemeanor.

1       (a5) Conditional Discharge for Purpose of Drug Treatment Court Program. – When a  
2 defendant is eligible for a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A  
3 of the General Statutes, the court may, without entering a judgment of guilt and with the  
4 consent of the defendant, defer further proceedings and place the defendant on probation for the  
5 purpose of allowing the defendant to participate in and successfully complete the Drug  
6 Treatment Court Program.

7       (a6) Compliance With Terms of Conditional Discharge. – Upon violation of a term or  
8 condition of a conditional discharge granted pursuant to this section, the court may enter an  
9 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and  
10 conditions of a conditional discharge granted pursuant to this section, any plea or finding of  
11 guilty previously entered shall be withdrawn and the court shall discharge the person and  
12 dismiss the proceedings against the person.

13       (b) Supervised and Unsupervised Probation. – The court may place a person on  
14 supervised or unsupervised probation. A person on unsupervised probation is subject to all  
15 incidents of probation except supervision by or assignment to a probation officer.

16       (c) Repealed by Session Laws 1995, c. 429, s. 1.

17       (d) Search of Sex Offender Registration Information Required When Placing a  
18 Defendant on Probation. – When the court places a defendant on probation, the probation  
19 officer assigned to the defendant shall conduct a search of the defendant's name or other  
20 identifying information against the registration information regarding sex offenders compiled  
21 by the Division of Criminal Statistics of the Department of Justice in accordance with Article  
22 27A of Chapter 14 of the General Statutes. The probation officer may conduct the search using  
23 the Internet site maintained by the Division of Criminal Statistics.

24       (e) Review of Defendant's Juvenile Record. – The probation officer assigned to a  
25 defendant may examine and obtain copies of the defendant's juvenile record in a manner  
26 consistent with G.S. 7B-3000(b) and (e1)."

27       **SECTION 2.(b)** G.S. 7A-272 reads as rewritten:

28       "**§ 7A-272. Jurisdiction of district court; concurrent jurisdiction in guilty or no contest**  
29       **pleas for certain felony offenses; appellate and appropriate relief procedures**  
30       **applicable.**

31       ...

32       (e) With the consent of the chief district court judge and the senior resident superior  
33 court judge, the district court has jurisdiction to preside over the supervision of a probation  
34 judgment entered in superior court in which the defendant is required to participate in a drug  
35 treatment court program pursuant to G.S. 15A-1343(b1)(2b) or a therapeutic court as defined in  
36 subsection (f) of this section, or is participating in the drug treatment court pursuant to a  
37 deferred prosecution agreement under ~~G.S. 15A-1341(a2)~~ G.S. 15A-1341(a2) or the terms of a  
38 conditional discharge under G.S. 15A-1341(a5). The district court may modify or extend the  
39 probation judgment, but jurisdiction to revoke probation supervised under this subsection is as  
40 provided in G.S. 7A-271(f).

41       (f) As used in subsection (e) of this section, the term "therapeutic court" refers to a  
42 court, other than drug treatment court established pursuant to Article 62 of Chapter 7A of the  
43 General Statutes, in which a criminal defendant, either as a condition of probation or pursuant  
44 to a deferred prosecution agreement or the terms of a conditional discharge under  
45 G.S. 15A-1341, is ordered to participate in specified activities designed to address underlying  
46 problems of substance abuse and mental illness that contribute to the person's criminal activity.  
47 The ordered activities shall, at a minimum, require the person to participate in treatment and  
48 attend regular court sessions of the therapeutic court over an extended period of time. The  
49 senior resident superior court judge and the chief district court judge shall agree in writing that  
50 the therapeutic court is being established and shall file the written agreement with the

1 Administrative Office of the Courts before jurisdiction established by subsection (e) of this  
2 section may be exercised by the district court."

3 **SECTION 2.(c)** G.S. 14-313(f) reads as rewritten:

4 "(f) ~~Deferred prosecution~~prosecution or conditional discharge. – Notwithstanding  
5 ~~G.S. 15A-1341(a1)~~G.S. 15A-1341(a1) or G.S. 15A-1341(a4), any person charged with a  
6 misdemeanor under this section shall be qualified for deferred prosecution or a conditional  
7 discharge pursuant to Article 82 of Chapter 15A of the General Statutes provided the defendant  
8 has not previously been placed on probation for a violation of this section and so states under  
9 oath."

10 **SECTION 2.(d)** G.S. 15A-146(d) reads as rewritten:

11 "(d) A person charged with a crime that is dismissed pursuant to compliance with a  
12 deferred prosecution agreement or the terms of a conditional discharge and who files a petition  
13 for expunction of a criminal record under this section must pay the clerk of superior court a fee  
14 of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected  
15 under this subsection are payable to the Administrative Office of the Courts. The clerk of  
16 superior court shall remit one hundred twenty-two dollars and fifty cents (\$122.50) of each fee  
17 to the North Carolina Department of Justice for the costs of criminal record checks performed  
18 in connection with processing petitions for expunctions under this section. The remaining  
19 fifty-two dollars and fifty cents (\$52.50) of each fee shall be retained by the Administrative  
20 Office of the Courts and used to pay the costs of processing petitions for expunctions under this  
21 section. This subsection does not apply to petitions filed by an indigent."

22 **SECTION 2.(e)** G.S. 15A-1342 reads as rewritten:

23 **"§ 15A-1342. Incidents of probation.**

24 (a) Period. – The court may place a convicted offender on probation for the appropriate  
25 period as specified in G.S. 15A-1343.2(d), not to exceed a maximum of five years. The court  
26 may place a defendant as to whom prosecution has been deferred or who receives a conditional  
27 discharge on probation for a maximum of two years. The probation remains conditional and  
28 subject to revocation during the period of probation imposed, unless terminated as provided in  
29 subsection (b) or G.S. 15A-1341(c).

30 Extension. – In addition to G.S. 15A-1344, the court with the consent of the defendant may  
31 extend the period of probation beyond the original period (i) for the purpose of allowing the  
32 defendant to complete a program of restitution, or (ii) to allow the defendant to continue  
33 medical or psychiatric treatment ordered as a condition of the probation. The period of  
34 extension shall not exceed three years beyond the original period of probation. The special  
35 extension authorized herein may be ordered only in the last six months of the original period of  
36 probation. Any probationary judgment form provided to a defendant on supervised probation  
37 shall state that probation may be extended pursuant to this subsection.

38 (a1) Supervision of Defendants on Deferred ~~Prosecution~~Prosecution or Conditional  
39 Discharge. – The Section of Community Corrections of the Division of Adult Correction of the  
40 Department of Public Safety may be ordered by the court to supervise an offender's compliance  
41 with the terms of a conditional discharge or deferred prosecution agreement entered into under  
42 ~~G.S. 15A-1341(a1) or (a3)~~G.S. 15A-1341(a1), (a3), (a4), or (a5). Violations of the terms of the  
43 agreement or conditional discharge shall be reported to the court as provided in this Article and  
44 to the district attorney in the district in which the agreement was entered.

45 ...

46 (i) Immunity from Prosecution upon Compliance. – Upon the expiration or early  
47 termination as provided in subsection (b) of a period of probation imposed after deferral of  
48 prosecution and before ~~conviction~~conviction or a conditional discharge, the defendant shall be  
49 immune from prosecution of the charges ~~deferred~~deferred or discharged and dismissed.

50 ...."

51 **SECTION 2.(f)** G.S. 15A-1343 reads as rewritten:

1 **"§ 15A-1343. Conditions of probation.**

2 ...

3 (c1) Supervision Fee. – Any person placed on supervised probation pursuant to  
4 subsection (a) of this section shall pay a supervision fee of forty dollars (\$40.00) per month,  
5 unless exempted by the court. The court may exempt a person from paying the fee only for  
6 good cause and upon motion of the person placed on supervised probation. No person shall be  
7 required to pay more than one supervision fee per month. The court may require that the fee be  
8 paid in advance or in a lump sum or sums, and a probation officer may require payment by  
9 such methods if he is authorized by subsection (g) to determine the payment schedule.  
10 Supervision fees must be paid to the clerk of court for the county in which the judgment was  
11 ~~entered or entered,~~ the deferred prosecution agreement was ~~filed.~~ filed, or the conditional  
12 discharge was ordered. Fees collected under this subsection shall be transmitted to the State for  
13 deposit into the State's General Fund.

14 (c2) Electronic Monitoring Device Fees. – Any person placed on house arrest with  
15 electronic monitoring under subsection (a1) or (b1) of this section shall pay a fee of ninety  
16 dollars (\$90.00) for the electronic monitoring device and a daily fee in an amount that reflects  
17 the actual cost of providing the electronic monitoring. The court may exempt a person from  
18 paying the fees only for good cause and upon motion of the person placed on house arrest with  
19 electronic monitoring. The court may require that the fees be paid in advance or in a lump sum  
20 or sums, and a probation officer may require payment by those methods if the officer is  
21 authorized by subsection (g) of this section to determine the payment schedule. The fees must  
22 be paid to the clerk of court for the county in which the judgment was ~~entered or entered,~~ the  
23 deferred prosecution agreement was ~~filed.~~ filed, or the conditional discharge was ordered. Fees  
24 collected under this subsection for the electronic monitoring device shall be transmitted to the  
25 State for deposit into the State's General Fund. The daily fees collected under this subsection  
26 shall be remitted to the Department of Public Safety to cover the costs of providing the  
27 electronic monitoring."

28 **SECTION 2.(g)** G.S. 143B-708 reads as rewritten:

29 **"§ 143B-708. Community service program.**

30 ...

31 (c) A fee of two hundred fifty dollars (\$250.00) shall be paid by all persons who  
32 participate in the program or receive services from the program staff. Only one fee may be  
33 assessed for each sentencing transaction, even if the person is assigned to the program on more  
34 than one occasion, or while on deferred prosecution, under a conditional discharge, or ~~while~~  
35 serving a sentence for the offense. A sentencing transaction shall include all offenses  
36 considered and adjudicated during the same term of court. Fees collected pursuant to this  
37 subsection shall be deposited in the General Fund. If the person is convicted in a court in this  
38 State, the fee shall be paid to the clerk of court in the county in which the person is convicted,  
39 regardless of whether the person is participating in the program as a condition of parole, of  
40 probation imposed by the court, or pursuant to the exercise of authority delegated to the  
41 probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the  
42 program as a result of a conditional discharge or a deferred prosecution or similar program, the  
43 fee shall be paid to the clerk of court in the county in which the agreement is filed. Persons  
44 participating in the program for any other reason shall pay the fee to the clerk of court in the  
45 county in which the services are provided by the program staff. The fee shall be paid in full  
46 before the person may participate in the community service program, except that:

- 47 (1) A person convicted in a court in this State may be given an extension of time  
48 or allowed to begin the community service before the person pays the fee by  
49 the court in which the person is convicted; or  
50 (2) A person performing community service pursuant to a conditional discharge,  
51 deferred prosecution or similar agreement may be given an extension of time

1 or allowed to begin community service before the fee is paid by the official  
2 or agency representing the State in the agreement.

3 (3) A person performing community service as a condition of parole may be  
4 given an extension of time to pay the fee by the Post-Release Supervision  
5 and Parole Commission. No person shall be required to pay the fee before  
6 beginning the community service unless the Commission orders the person  
7 to do so in writing.

8 (4) A person performing community service as ordered by a probation officer  
9 pursuant to authority delegated by G.S. 15A-1343.2 may be given an  
10 extension of time to pay the fee by the probation officer exercising the  
11 delegated authority.

12 ...  
13 (e) The community service staff shall report to the court in which the community  
14 service was ordered, a significant violation of the terms of the probation, ~~or deferred~~  
15 prosecution, or conditional discharge related to community service, including a willful failure  
16 to pay any moneys due the State under any court order or payment schedule adopted by the  
17 Section of Community Corrections of the Division of Adult Correction. The community service  
18 staff shall give notice of the hearing to determine if there is a willful failure to comply to the  
19 person who was ordered to perform the community service. This notice shall be given by either  
20 personal delivery to the person to be notified or by depositing the notice in the United States  
21 mail in an envelope with postage prepaid, addressed to the person at the last known address  
22 available to the preparer of the notice and reasonably believed to provide actual notice to the  
23 person. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis  
24 of the alleged willful failure to comply. The court shall then conduct a hearing, even if the  
25 person ordered to perform the community service fails to appear, to determine if there is a  
26 willful failure to complete the work as ordered by the community service staff within the  
27 applicable time limits. The hearing may be held in the county in which the ~~probation judgment~~  
28 ~~or deferred prosecution order~~ requiring the performance of community service was imposed,  
29 the county in which the violation occurred, or the county of residence of the person. If the court  
30 determines there is a willful failure to comply, it shall revoke any drivers license issued to the  
31 person and notify the Division of Motor Vehicles to revoke any drivers license issued to the  
32 person until the community service requirement has been met. In addition, if the person is  
33 present, the court may take any further action authorized by Article 82 of Chapter 15A of the  
34 General Statutes for violation of a condition of probation."

35 **SECTION 2.(h)** This section becomes effective December 1, 2014.

### 36 37 **POSSESSION OF MARIJUANA PARAPHERNALIA/CLASS 3 MISDEMEANOR**

38 **SECTION 3.(a)** G.S. 90-113.22 reads as rewritten:

#### 39 **"§ 90-113.22. Possession of drug paraphernalia.**

40 (a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug  
41 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
42 produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a  
43 controlled substance other than marijuana which it would be unlawful to possess, or to inject,  
44 ingest, inhale, or otherwise introduce into the body a controlled substance other than marijuana  
45 which it would be unlawful to possess.

46 (b) ~~Violation~~ Except as provided in G.S. 90-113.22A, a violation of this section is a  
47 Class 1 misdemeanor.

48 (c) Prior to searching a person, a person's premises, or a person's vehicle, an officer  
49 may ask the person whether the person is in possession of a hypodermic needle or other sharp  
50 object that may cut or puncture the officer or whether such a hypodermic needle or other sharp  
51 object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or

1 other sharp object on the person, on the person's premises, or in the person's vehicle and the  
2 person alerts the officer of that fact prior to the search, the person shall not be charged with or  
3 prosecuted for possession of drug paraphernalia for the needle or sharp object. The exemption  
4 under this subsection does not apply to any other drug paraphernalia that may be present and  
5 found during the search. For purposes of this subsection, the term "officer" includes "criminal  
6 justice officers" as defined in G.S. 17C-2(3) and a "justice officer" as defined in  
7 G.S. 17E-2(3)."

8 **SECTION 3.(b)** Article 5B of Chapter 14 of the General Statutes is amended by  
9 adding a new section to read:

10 **"§ 90-113.22A. Possession of marijuana drug paraphernalia.**

11 (a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug  
12 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
13 produce, process, prepare, test, analyze, package, repack, store, contain, or conceal  
14 marijuana, or to inject, ingest, inhale, or otherwise introduce marijuana into the body.

15 (b) A violation of this section is a Class 3 misdemeanor."

16 **SECTION 3.(c)** This section becomes effective December 1, 2014, and applies to  
17 offenses committed on or after that date.

18  
19 **HUMAN TRAFFICKING COMMISSION/STUDY ERIN'S LAW**

20 **SECTION 4.(a)** The Human Trafficking Commission established by G.S. 114-70,  
21 in consultation with Prevent Child Abuse North Carolina; the North Carolina Coalition Against  
22 Sexual Assault; the National Association of Social Workers, North Carolina Chapter; the North  
23 Carolina School Boards Association; the Department of Public Instruction; and two  
24 representatives of local child advocacy agencies, shall study the prevention of sexual abuse of  
25 children. As part of this study, the Commission shall do the following:

- 26 (1) Gather information concerning the occurrence of child sexual abuse  
27 throughout the State.
- 28 (1a) Receive reports and testimony on child sexual abuse from individuals, State  
29 and local agencies, community-based organizations, and other public and  
30 private organizations.
- 31 (2) Identify statewide goals to prevent child sexual abuse.
- 32 (3) Examine age-appropriate curricula on the subject of sexual abuse for  
33 students in kindergarten through grade six that could be included as part of  
34 the Basic Education Program for the public schools.
- 35 (4) Identify methods for increasing teacher, student, and parent awareness of  
36 issues regarding sexual abuse of children, including the warning signs  
37 indicating that a child may be a victim of sexual abuse, actions that a child  
38 who is a victim of sexual abuse may take to obtain assistance and  
39 intervention, and available counseling options for children affected by sexual  
40 abuse.
- 41 (5) Study any other issue the Commission considers relevant to this topic.

42 **SECTION 4.(b)** The Human Trafficking Commission shall submit a final report of  
43 the results of its study and its recommendations, including any proposed legislation, to the 2015  
44 General Assembly.

45  
46 **INCREASE PENALTY FOR GIVING OR SELLING A CELL PHONE TO AN**  
47 **INMATE/MAKE IT UNLAWFUL FOR STATE INMATE TO POSSESS A CELL**  
48 **PHONE/INCREASE PENALTY FOR INMATE OF LOCAL CONFINEMENT**  
49 **FACILITY TO POSSESS CELL PHONE**

50 **SECTION 5.(a)** G.S. 14-258.1 reads as rewritten:

1 "§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,  
2 ammunition or alcoholic beverages to inmates of charitable, mental or penal  
3 institutions or local confinement facilities; furnishing tobacco products or  
4 mobile phones to inmates.

5 ...

6 (d) Any person who knowingly gives or sells a mobile telephone or other wireless  
7 communications device, or a component of one of those devices, to an inmate in the custody of  
8 the Division of Adult Correction of the Department of Public Safety or to an inmate in the  
9 custody of a local confinement facility, or any person who knowingly gives or sells any such  
10 device or component to a person who is not an inmate for delivery to an inmate, is guilty of a  
11 ~~Class 1 misdemeanor.~~ Class H felony.

12 (e) Any inmate of a local confinement facility who possesses any tobacco product, as  
13 defined in G.S. 148-23.1, other than for authorized religious purposes, ~~or who possesses a~~  
14 ~~mobile telephone or other wireless communications device or a component of one of those~~  
15 ~~devices,~~ is guilty of a Class 1 misdemeanor.

16 (f) Any inmate in the custody of the Division of Adult Correction of the Department of  
17 Public Safety or an inmate of a local confinement facility who possesses a mobile telephone or  
18 other wireless communication device or a component of one of those devices is guilty of a  
19 Class H felony."

20 **SECTION 5.(b)** This section becomes effective December 1, 2014, and applies to  
21 offenses committed on or after that date.

## 22 23 **ASSAULT ON A LEGISLATIVE, EXECUTIVE, OR COURT** 24 **OFFICIAL/THREATS/SOLICITATION BY AN INMATE**

25 **SECTION 6.(a)** G.S. 14-16.6(a) reads as rewritten:

26 "(a) Any person who assaults any legislative officer, executive officer, or court officer,  
27 or assaults another person as retaliation against any legislative officer, executive officer, or  
28 court officer because of the exercise of that officer's duties, or any person who makes a violent  
29 attack upon the residence, office, temporary accommodation or means of transport of any one  
30 of those officers or persons in a manner likely to endanger the officer, ~~officer or person,~~ shall  
31 be guilty of a felony and shall be punished as a Class I felon."

32 **SECTION 6.(b)** G.S. 14-16.7 reads as rewritten:

33 "**§ 14-16.7. Threats against executive, legislative, or court officers.**

34 (a) Any person who knowingly and willfully makes any threat to inflict serious bodily  
35 injury upon or to kill any legislative officer, executive officer, or court officer, or who  
36 knowingly and willfully makes any threat to inflict serious bodily injury upon or kill any other  
37 person as retaliation against any legislative officer, executive officer, or court officer because of  
38 the exercise of that officer's duties, shall be guilty of a felony and shall be punished as a Class I  
39 felon.

40 (b) Any person who knowingly and willfully deposits for conveyance in the mail any  
41 letter, writing, or other document containing a threat to ~~inflict serious bodily injury upon or to~~  
42 ~~kill any legislative officer, executive officer, or court officer,~~ commit an offense described in  
43 subsection (a) of this section shall be guilty of a felony and shall be punished as a Class I  
44 felon."

45 **SECTION 6.(c)** This section becomes effective December 1, 2014, and applies to  
46 offenses committed on or after that date.

## 47 48 **ADD RETIRED QUALIFIED CORRECTIONAL OFFICERS/COURSE EXEMPTION**

49 **SECTION 7.(a)** G.S. 14-415.10 is amended by adding a new subdivision to read:

50 "(4c) Qualified retired correctional officer. – An individual who retired from  
51 service as a State correctional officer, other than for reasons of mental



1 disability, who has been retired as a correctional officer two years or less  
2 from the date of the permit application and who meets all of the following  
3 criteria:

4 a. Immediately before retirement, the individual met firearms training  
5 standards of the Division of Adult Correction of the Department of  
6 Public Safety and was authorized by the Division of Adult Correction  
7 of the Department of Public Safety to carry a handgun in the course  
8 of assigned duties.

9 b. The individual retired in good standing and was never a subject of a  
10 disciplinary action by the Division of Adult Correction of the  
11 Department of Public Safety that would have prevented the  
12 individual from carrying a handgun.

13 c. The individual has a vested right to benefits under the Teachers' and  
14 State Employees' Retirement System of North Carolina established  
15 under Article 1 of Chapter 135 of the General Statutes.

16 d. The individual is not prohibited by State or federal law from  
17 receiving a firearm."

18 **SECTION 7.(b)** G.S. 14-415.12A(a) reads as rewritten:

19 "(a) A person who is a qualified sworn law enforcement officer, a qualified former  
20 sworn law enforcement officer, a qualified retired correctional officer, or a qualified retired  
21 probation or parole certified officer is deemed to have satisfied the requirement under G.S. 14  
22 415.12(a)(4) that an applicant successfully complete an approved firearms safety and training  
23 course."

24 **SECTION 7.(c)** This section is effective when this act becomes law.  
25

## 26 **REMOTE VIDEO TESTIMONY BY FORENSIC AND CHEMICAL ANALYSTS**

27 **SECTION 8.(a)** Article 73 of Chapter 15A of the General Statutes is amended by  
28 adding a new section to read:

### 29 **"§ 15A-1225.3. Forensic analyst remote testimony.**

30 (a) Definitions. – The following definitions apply to this section:

31 (1) Criminal proceeding. – Any hearing or trial in a prosecution of a person  
32 charged with violating a criminal law of this State and any hearing or  
33 proceeding conducted under Subchapter II of Chapter 7B of the General  
34 Statutes where a juvenile is alleged to have committed an offense that would  
35 be a criminal offense if committed by an adult.

36 (2) Remote testimony. – A method by which a forensic analyst testifies from a  
37 location other than the location where the hearing or trial is being conducted  
38 and outside the physical presence of a party or parties.

39 (b) Remote Testimony Authorized. – In any criminal proceeding, the testimony of an  
40 analyst regarding the results of forensic testing admissible pursuant to G.S. 8-58.20, and  
41 reported by that analyst, shall be permitted by remote testimony if all of the following occur:

42 (1) The State has provided a copy of the report to the attorney of record for the  
43 defendant, or to the defendant if that person has no attorney, as required by  
44 G.S. 8-58.20(d). For purposes of this subdivision, "report" means the full  
45 laboratory report package provided to the district attorney.

46 (2) The State notifies the attorney of record for the defendant, or the defendant if  
47 that person has no attorney, at least 15 business days before the proceeding  
48 at which the evidence would be used of its intention to introduce the  
49 testimony regarding the results of forensic testing into evidence using remote  
50 testimony.

1           (3)   The defendant's attorney of record, or the defendant if that person has no  
2           attorney, fails to file a written objection with the court, with a copy to the  
3           State, at least five business days before the proceeding at which the  
4           testimony will be presented that the defendant objects to the introduction of  
5           the remote testimony.

6           If the defendant's attorney of record, or the defendant if that person has no attorney, fails to  
7           file a written objection as provided in this subsection, then the analyst shall be allowed to  
8           testify by remote testimony.

9           (c)   Testimony. – The method used for remote testimony authorized by this section shall  
10          allow the trier of fact and all parties to observe the demeanor of the analyst as the analyst  
11          testifies in a similar manner as if the analyst were testifying in the location where the hearing or  
12          trial is being conducted. The court shall ensure that the defendant's attorney, or the defendant if  
13          that person has no attorney, has a full and fair opportunity for examination and  
14          cross-examination of the analyst.

15          (d)   Nothing in this section shall preclude the right of any party to call any witness."

16          **SECTION 8.(b)** G.S. 20-139.1 is amended by adding a new subsection to read:

17          "(c5) The testimony of an analyst regarding the results of a chemical analysis of blood or  
18          urine admissible pursuant to subsection (c1) of this section, and reported by that analyst, shall  
19          be permitted by remote testimony, as defined in G.S. 15A-1225.3, in all administrative  
20          hearings, and in any court, if all of the following occur:

21               (1)   The State has provided a copy of the report to the attorney of record for the  
22               defendant, or to the defendant if that person has no attorney, as required by  
23               subsections (c1) and (c3) of this section.

24               (2)   The State notifies the attorney of record for the defendant, or the defendant if  
25               that person has no attorney, at least 15 business days before the proceeding  
26               at which the evidence would be used of its intention to introduce the  
27               testimony regarding the chemical analysis into evidence using remote  
28               testimony.

29               (3)   The defendant's attorney of record, or the defendant if that person has no  
30               attorney, fails to file a written objection with the court, with a copy to the  
31               State, at least five business days before the proceeding at which the  
32               testimony will be presented that the defendant objects to the introduction of  
33               the remote testimony.

34          If the defendant's attorney of record, or the defendant if that person has no attorney, fails to  
35          file a written objection as provided in this subsection, then the analyst shall be allowed to  
36          testify by remote testimony.

37          The method used for remote testimony authorized by this subsection shall allow the trier of  
38          fact and all parties to observe the demeanor of the analyst as the analyst testifies in a similar  
39          manner as if the analyst were testifying in the location where the hearing or trial is being  
40          conducted. The court shall ensure that the defendant's attorney, or the defendant if that person  
41          has no attorney, has a full and fair opportunity for examination and cross-examination of the  
42          analyst.

43          Nothing in this section shall preclude the right of any party to call any witness. Nothing in  
44          this subsection shall obligate the Administrative Office of the Courts or the State Crime  
45          Laboratory to incur expenses related to remote testimony absent an appropriation of funds for  
46          that purpose."

47          **SECTION 8.(c)** This section becomes effective September 1, 2014, and applies to  
48          testimony admitted on or after that date.

49  
50          **PERMIT DETENTION OFFICERS TO CARRY WEAPONS ON CAMPUS OR OTHER**  
51          **EDUCATIONAL PROPERTY WHEN DISCHARGING OFFICIAL DUTIES**

1           **SECTION 9.(a)** G.S. 14-269.2 reads as rewritten:

2   "**§ 14-269.2. Weapons on campus or other educational property.**

3    ...

4    (g) This section shall not apply to any of the following:

5       (1) A weapon used solely for educational or school-sanctioned ceremonial  
6       purposes, or used in a school-approved program conducted under the  
7       supervision of an adult whose supervision has been approved by the school  
8       authority.

9       (1a) A person exempted by the provisions of G.S. 14-269(b).

10      (2) Firefighters, emergency service personnel, ~~and~~—North Carolina Forest  
11      Service personnel, detention officers employed by and authorized by the  
12      sheriff to carry firearms, and any private police employed by a school, when  
13      acting in the discharge of their official duties.

14      (3) Home schools as defined in G.S. 115C-563(a).

15      (4) Weapons used for hunting purposes on the Howell Woods Nature Center  
16      property in Johnston County owned by Johnston Community College when  
17      used with the written permission of Johnston Community College or for  
18      hunting purposes on other educational property when used with the written  
19      permission of the governing body of the school that controls the educational  
20      property.

21      (5) A person registered under Chapter 74C of the General Statutes as an armed  
22      armored car service guard or an armed courier service guard when acting in  
23      the discharge of the guard's duties and with the permission of the college or  
24      university.

25      (6) A person registered under Chapter 74C of the General Statutes as an armed  
26      security guard while on the premises of a hospital or health care facility  
27      located on educational property when acting in the discharge of the guard's  
28      duties with the permission of the college or university.

29      (7) A volunteer school safety resource officer providing security at a school  
30      pursuant to an agreement as provided in G.S. 115C-47(61) and either  
31      G.S. 162-26 or G.S. 160A-288.4, provided that the volunteer school safety  
32      resource officer is acting in the discharge of the person's official duties and  
33      is on the educational property of the school that the officer was assigned to  
34      by the head of the appropriate local law enforcement agency."

35           **SECTION 9.(b)** This section becomes effective December 1, 2014, and applies to  
36   offenses committed on or after that date.

37  
38   **PROVIDE THAT AIR RIFLES, AIR PISTOLS, AND BB GUNS ARE NOT INCLUDED**  
39   **IN THE DEFINITION OF "DANGEROUS FIREARMS" FOR CERTAIN PURPOSES**  
40   **IN THE FOLLOWING COUNTIES: ANSON, CLEVELAND, HARNETT, STANLY,**  
41   **AND SURRY**

42           **SECTION 10.(a)** G.S. 14-316 reads as rewritten:

43   "**§ 14-316. Permitting young children to use dangerous firearms.**

44      (a) It shall be unlawful for any person to knowingly permit a child under the age of 12  
45      years to have access to, or possession, custody or use in any manner whatever, of any gun,  
46      pistol or other dangerous firearm, whether such weapon be loaded or unloaded, unless the  
47      person has the permission of the child's parent or guardian, and the child is under the  
48      supervision of an adult. Any person violating the provisions of this section shall be guilty of a  
49      Class 2 misdemeanor.

50      (b) Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within  
51      the meaning of subsection (a) of this section except in the following counties: ~~Anson~~,Caldwell,

1 ~~Caswell, Chowan, Cleveland, Cumberland, Durham, Forsyth, Gaston, Harnett, Haywood,~~  
2 ~~Mecklenburg, Stanly, Stokes, Surry, Union, Vance."~~

3 **SECTION 10.(b)** This section becomes effective December 1, 2014, and applies to  
4 offenses committed on or after that date.

#### 6 **PROPER IMPLEMENTATION OF EXPUNCTION LAWS**

7 **SECTION 12.(a)** G.S. 15A-145.5(f) reads as rewritten:

8 "(f) Any other applicable State or local government agency shall expunge from its  
9 records entries made as a result of the conviction ordered expunged under this section upon  
10 receipt from the petitioner of an order entered pursuant to this section. The agency shall also  
11 vacate any administrative actions taken against a person whose record is expunged under this  
12 section as a result of the charges or convictions expunged. A person whose administrative  
13 action has been vacated by an occupational licensing board pursuant to an expunction under  
14 this section may then reapply for licensure and must satisfy the board's then current education  
15 and preliminary licensing requirements in order to obtain licensure. This subsection shall not  
16 apply to the Department of Justice for DNA records and samples stored in the State DNA  
17 Database and the State DNA ~~Databank or to fingerprint records Databank.~~"

18 **SECTION 12.(b)** This section is effective when it becomes law and applies to  
19 expunctions issued pursuant to G.S. 15A-145.5 before, on, or after that date.

#### 21 **INCREASE PENALTY FOR SECOND OFFENSE OF CARRYING A CONCEALED 22 WEAPON THAT IS A FIREARM**

23 **SECTION 13.(a)** G.S. 14-269(c) reads as rewritten:

24 "(c) Any person violating the provisions of subsection (a) of this section shall be guilty  
25 of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this  
26 section shall be guilty of a Class 2 misdemeanor for the first ~~offense. A offense and a Class H~~  
27 felony for a second or subsequent offense is punishable as a Class I felony offense. A violation  
28 of subsection (a1) of this section punishable under G.S. 14-415.21(a) is not punishable under  
29 this section."

30 **SECTION 13.(b)** This section becomes effective December 1, 2014, and applies to  
31 offenses committed on or after that date.

#### 33 **CLARIFY TO WHICH LOCAL GOVERNMENT CONTRACTS E-VERIFY APPLIES**

34 **SECTION 14.(a)** G.S. 160A-20.1(b) reads as rewritten:

35 "(b) Contractors Must Use E-Verify. – No city may enter into a contract subject to G.S.  
36 143-129 unless the contractor and the contractor's subcontractors comply with the requirements  
37 of Article 2 of Chapter 64 of the General Statutes."

38 **SECTION 14.(b)** G.S. 153A-449(b) reads as rewritten:

39 "(b) Contractors Must Use E-Verify. – No county may enter into a contract subject to  
40 G.S. 143-129 unless the contractor and the contractor's subcontractors comply with the  
41 requirements of Article 2 of Chapter 64 of the General Statutes."

42 **SECTION 14.(c)** This section becomes effective October 1, 2014, and applies to  
43 contracts entered into on or after that date.

#### 45 **EFFECTIVE DATE**

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