

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 594
Judiciary II Committee Substitute Adopted 4/10/13
Health Care Committee Substitute Adopted 4/17/13
Fourth Edition Engrossed 4/22/13
House Committee Substitute Favorable 6/19/14

Short Title: Omnibus Justice Amendments.

(Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE PENALTIES FOR POSSESSION OF A FIREARM BY A FELON,
2 TO REMOVE PROHIBITIONS ON CARRYING CONCEALED FIREARMS BY
3 CERTAIN DEPARTMENT OF PUBLIC SAFETY EMPLOYEES, TO INCREASE THE
4 PENALTY FOR CARRYING A CONCEALED FIREARM, TO INCREASE THE
5 PENALTY FOR GIVING OR SELLING A CELL PHONE TO AN INMATE AND TO
6 MAKE POSSESSION OF A CELL PHONE BY AN INMATE UNLAWFUL, TO
7 INCREASE PENALTIES FOR THREATS AND ASSAULTS ON GOVERNMENT
8 OFFICIALS, TO CREATE AN OFFENSE WHEN AN INMATE SOLICITS ANOTHER
9 TO COMMIT A CRIMINAL OFFENSE, TO INCREASE PENALTIES FOR CERTAIN
10 VIOLATIONS OF THE AMUSEMENT DEVICE SAFETY ACT, TO PROPERLY
11 IMPLEMENT CURRENT EXPUNCTION PROVISIONS, TO INCREASE THE
12 MANDATORY RETIREMENT AGE FOR JUDGES AND JUSTICES OF THE
13 GENERAL COURT OF JUSTICE, TO ADD QUALIFIED RETIRED CORRECTIONAL
14 OFFICERS TO OFFICERS EXEMPT FROM CONCEALED CARRY COURSE, TO
15 CONFORM STATE LAW WITH THE UNITED STATES SUPREME COURT
16 DECISION IN HALL V. FLORIDA, TO AMEND THE DISCOVERY PROCEDURE IN
17 CERTAIN POSTCONVICTION PROCEEDINGS, TO MAKE THE TAKING OF THE
18 VENUS FLYTRAP A FELONY, TO INCREASE THE PENALTY FOR GRAFFITI
19 VANDALISM, AND TO ADD THE UNFAIR USE OF CRIMINAL RECORD
20 INFORMATION TO THE CONSUMER PROTECTION LAWS.

21 The General Assembly of North Carolina enacts:

22 **PART I. INCREASE PENALTY FOR POSSESSION OF FIREARM BY FELON**

23 **SECTION 1.1.** G.S. 14-415.1(a) reads as rewritten:

24 "(a) It shall be unlawful for any person who has been convicted of a felony to purchase,
25 own, possess, or have in his custody, care, or control any firearm or any weapon of mass death
26 and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i)
27 any weapon, including a starter gun, which will or is designed to or may readily be converted to
28 expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm
29 muffler or firearm silencer. This section does not apply to an antique firearm, as defined in
30 G.S. 14-409.11.
31
32



1 Every person violating the provisions of this section shall be punished as a ~~Class G~~
2 ~~felon~~. Class F felon."

3 **SECTION 1.2.** This Part becomes effective December 1, 2014, and applies to
4 offenses committed on or after that date.

5
6 **PART II. REMOVE PROHIBITIONS ON CARRYING CONCEALED FIREARMS**
7 **FOR CERTAIN DEPARTMENT OF PUBLIC SAFETY EMPLOYEES AND**
8 **INCREASE PENALTY FOR CARRYING CONCEALED WEAPON THAT IS A**
9 **FIREARM.**

10 **SECTION 2.1.** G.S. 14-269 reads as rewritten:

11 "...

12 (b) This prohibition shall not apply to the following persons:

13 ...

14
15 (7) A person employed by the Department of Public Safety who has been
16 designated in writing by the Secretary of the Department, who has a
17 concealed handgun permit issued in accordance with Article 54B of this
18 Chapter or considered valid under G.S. 14-415.24, and has in the person's
19 possession written proof of the designation by the Secretary of the
20 Department, provided that the person shall not carry a concealed weapon at
21 any time while consuming alcohol or an unlawful controlled substance or
22 while alcohol or an unlawful controlled substance remains in the person's
23 body.

24"

25 **SECTION 2.2.** G.S. 14-269(c) reads as rewritten:

26 "(c) Any person violating the provisions of subsection (a) of this section shall be guilty
27 of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this
28 section shall be guilty of a ~~Class 2 misdemeanor~~ Class A1 misdemeanor for the first ~~offense~~. A
29 offense and a Class H felony for a second or subsequent offense is punishable as a Class I
30 felony offense. A violation of subsection (a1) punishable under G.S. 14-415.21(a) is not
31 punishable under this section."

32 **SECTION 2.3.** G.S. 14-415.27 reads as rewritten:

33 **"§ 14-415.27. Expanded permit scope for certain persons.**

34 Notwithstanding G.S. 14-415.11(c), any of the following persons who has a concealed
35 handgun permit issued pursuant to this Article or that is considered valid under G.S. 14-415.24
36 is not subject to the area prohibitions set out in G.S. 14-415.11(c) and may carry a concealed
37 handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal law:

38 (1) A district attorney.

39 (2) An assistant district attorney.

40 (3) An investigator employed by the office of a district attorney.

41 (4) A North Carolina district or superior court judge.

42 (5) A magistrate.

43 (6) A person who is elected and serving as a clerk of court.

44 (7) A person who is elected and serving as a register of deeds.

45 (8) A person employed by the Department of Public Safety who has been
46 designated in writing by the Secretary of the Department and who has in the
47 person's possession written proof of the designation."

48 **SECTION 2.4.** Section 2.1 and Section 2.3 of this Part are effective July 1, 2014,
49 and apply to offenses occurring on or after that date. Section 2.2 of this Part is effective
50 December 1, 2014, and applies to offenses occurring on or after that date. The remainder of this
51 Part is effective when this act becomes law.

1
2 **PART III. INCREASE PENALTY FOR GIVING OR SELLING A CELL PHONE TO**
3 **AN INMATE/MAKE IT UNLAWFUL FOR STATE INMATE TO POSSESS A CELL**
4 **PHONE/INCREASE PENALTY FOR INMATE OF LOCAL CONFINEMENT**
5 **FACILITY TO POSSESS CELL PHONE**

6 **SECTION 3.1.** G.S. 14-258.1 reads as rewritten:

7 "**§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**
8 **ammunition or alcoholic beverages to inmates of charitable, mental or penal**
9 **institutions or local confinement facilities; furnishing tobacco products or**
10 **mobile phones to inmates.**

11 ...

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

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

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

26 **SECTION 3.2.** This Part becomes effective December 1, 2014, and applies to
27 offenses committed on or after that date.

28
29 **PART IV. ASSAULT ON A GOVERNMENT OFFICIAL/THREATS/SOLICITATION**
30 **BY AN INMATE**

31 **SECTION 4.1.** G.S. 14-16.6 reads as rewritten:

32 "**§ 14-16.6. Assault on executive, legislative, or court officer.**

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

39 (b) Any person who commits an offense under subsection (a) and uses a deadly weapon
40 in the commission of that offense shall be punished as a ~~Class F felon.~~D felon.

41 (c) Any person who commits an offense under subsection (a) and inflicts serious bodily
42 ~~injury to any legislative officer, executive officer, or court officer,~~ injury, shall be punished as a
43 ~~Class F felon.~~C felon."

44 **SECTION 4.2.** G.S. 14-16.7 reads as rewritten:

45 "**§ 14-16.7. Threats against executive, legislative, or court officers.**

46 (a) Any person who knowingly and willfully makes any threat to inflict serious bodily
47 injury upon or to kill any legislative officer, executive officer, or court officer, or who
48 knowingly and willfully makes any threat to inflict serious bodily injury upon or kill any other
49 person as retaliation against any legislative officer, executive officer, or court officer because of
50 the exercise of that officer's duties, shall be guilty of a felony and shall be punished as a ~~Class I~~
51 ~~felon.~~F felon.

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

6 **SECTION 4.3.** G.S. 14-2.6 is amended by adding a new subsection to read:

7 "(a1) A person who is lawfully committed to or confined in any State penal institution or
8 local confinement facility and who solicits another person to commit a felony outside the State
9 penal institution or local confinement facility is guilty of a felony that is one class lower than
10 the felony the person solicited the other person to commit, except that a solicitation to commit a
11 Class A or Class B1 felony is a Class B2 felony, a solicitation to commit a Class B2 felony is a
12 Class C felony, and a solicitation to commit a Class I felony is a Class 1 misdemeanor."

13 **SECTION 4.4.** This Part becomes effective December 1, 2014, and applies to
14 offenses committed on or after that date.

15

16 PART V. AMUSEMENT DEVICE PENALTIES

17 **SECTION 5.1.** G.S. 95-111.13 reads as rewritten:

18 "**§ 95-111.13. Violations; civil penalties; appeal; criminal penalties.**

19 (a) Any person who violates G.S. 95-111.7(a) or (b) (Operation without certificate;
20 operation not in accordance with Article or rules and regulations) or G.S. 95-111.8 (Location
21 ~~notice) shall be is~~ subject to a civil penalty not to exceed ~~two hundred fifty dollars (\$250.00)~~
22 two thousand five hundred dollars (\$2,500) for each rule, regulation, or section of this Article
23 violated and for each day each device is so operated or used.

24 (b) Any person who violates G.S. 95-111.7(c) (Operation after refusal to issue or after
25 revocation of certificate) or G.S. 95-111.10(c) (Reports required) or G.S. 95-111.12 (Liability
26 insurance) ~~shall be is~~ subject to a civil penalty not to exceed ~~five hundred dollars (\$500.00)~~ five
27 thousand dollars (\$5,000) for each day each device is so operated or used.

28 (c) ~~Any person who violates G.S. 95-111.8 (Location notice) shall be subject to a civil~~
29 ~~penalty not to exceed five hundred dollars (\$500.00) for each day any device is operated or~~
30 ~~used without the location notice having been provided.~~

31 (d) Any person who violates the provisions of G.S. 95-111.10(d) (Reports required) or
32 knowingly permits the operation of an amusement device in violation of G.S. 95-111.11(a)
33 (Operator requirements) ~~shall be is~~ subject to a civil penalty not to exceed ~~five hundred dollars~~
34 ~~(\$500.00)~~ five thousand dollars (\$5,000) for each day each device is so operated or used.

35 (e) Any person who violates G.S. 95-111.9 (Operation of unsafe device) or
36 G.S. 95-111.11(b) (Operation of an amusement device while impaired) ~~shall be is~~ subject to a
37 civil penalty not to exceed ~~one thousand dollars (\$1,000)~~ ten thousand dollars (\$10,000) for
38 each day each device is so operated or used.

39 (f) In determining the amount of any penalty ordered under authority of this section, the
40 Commissioner shall give due consideration to the appropriateness of the penalty with respect to
41 ~~the size of the business of the person~~ annual gross volume of the business being charged, the
42 gravity of the violation, the good faith of the ~~person~~ person, and the record of previous
43 violations.

44 (g) The determination of the amount of the penalty by the Commissioner ~~shall be is~~
45 final, unless within 15 days after receipt of notice thereof by certified mail with return receipt,
46 by signature confirmation as provided by the U.S. Postal Service, by a designated delivery
47 service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand
48 delivery, the person charged with the violation takes exception to the determination, in which
49 event final determination of the penalty shall be made in an administrative proceeding and in a
50 judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative
51 Procedure Act.

1 (h) The Commissioner may file in the office of the clerk of the superior court of the
2 county wherein the person, against whom a civil penalty has been ordered, resides, or if a
3 corporation is involved, in the county wherein the corporation maintains its principal place of
4 business, or in the county wherein the violation occurred, a certified copy of a final order of the
5 Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal.
6 Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the
7 parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall
8 thereafter be the same, as though said judgment had been rendered in a suit duly heard and
9 determined by the superior court of the General Court of Justice.

10 (i) Any person who willfully violates any provision of this ~~Article, and the violation~~
11 ~~causes the death of any person, shall be~~ Article is guilty of a Class 2 misdemeanor, which may
12 include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is
13 for a violation committed after a first conviction of such person, a provision of this Article, the
14 person shall be is guilty of a Class 1 misdemeanor, which may include a fine of not more than
15 twenty thousand dollars (\$20,000). Any person who willfully violates any provision of this
16 Article, and the violation causes the serious injury or death of any person, is guilty of a Class E
17 felony, which may include a fine of not more than fifty thousand dollars (\$50,000). This
18 subsection shall not prevent any prosecuting officer of the State of North Carolina from
19 proceeding against such person on a prosecution charging any degree of willful or culpable
20 homicide."

21 **SECTION 5.2.** This Part becomes effective December 1, 2014, and applies to
22 offenses and violations committed on or after that date.

23

24 **PART VI. PROPER IMPLEMENTATION OF EXPUNCTION LAWS**

25 **SECTION 6.1.** G.S. 15A-145.5(f) reads as rewritten:

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

36 **SECTION 6.2.** This Part is effective when it becomes law and applies to
37 expunctions issued pursuant to G.S. 15A-145.5 before, on, or after that date.

38

39 **PART VII. INCREASE JUDGE RETIREMENT AGE**

40 **SECTION 7.1.** G.S. 7A-4.20 reads as rewritten:

41 "**§ 7A-4.20. Age limit for service as justice or judge: exception.**

42 No justice or judge of the General Court of Justice may continue in office beyond the last
43 day of the month in which ~~he the judge~~ attains his ~~seventy-second or her seventy-fifth~~ birthday,
44 but justices and judges so retired may be recalled for periods of temporary service as provided
45 in Subchapters II and III of this chapter."

46 **SECTION 7.2.** G.S. 135-57(b) reads as rewritten:

47 "(b) Any member who is a justice or judge of the General Court of Justice shall be
48 automatically retired as of the first day of the calendar month coinciding with or next following
49 the later of January 1, 1974, or ~~his the judge's~~ attainment of his ~~seventy-second or her~~
50 seventy-fifth birthday; provided, however, that no judge who is a member on January 1, 1974,

1 shall be forced to retire under the provisions of this subsection at an earlier date than the last
2 day that he is permitted to remain in office under the provisions of G.S. 7A-4.20."

3 **SECTION 7.3.** This Part becomes effective December 1, 2014.
4

5 **PART VIII. ADD RETIRED QUALIFIED CORRECTIONAL OFFICERS/COURSE**
6 **EXEMPTION**

7 **SECTION 8.1.** G.S. 14-415.10 is amended by adding a new subdivision to read:

8 "(4c) Qualified retired correctional officer. – An individual who retired from
9 service as a State correctional officer, other than for reasons of mental
10 disability, who has been retired as a correctional officer two years or less
11 from the date of the permit application and who meets all of the following
12 criteria:

13 a. Immediately before retirement, the individual met firearms training
14 standards of the Division of Adult Correction of the Department of
15 Public Safety and was authorized by the Division of Adult Correction
16 of the Department of Public Safety to carry a handgun in the course
17 of assigned duties.

18 b. The individual retired in good standing and was never a subject of a
19 disciplinary action by the Division of Adult Correction of the
20 Department of Public Safety that would have prevented the
21 individual from carrying a handgun.

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

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

27 **SECTION 8.2.** G.S. 14-415.12A(a) reads as rewritten:

28 "(a) A person who is a qualified sworn law enforcement officer, a qualified former sworn
29 law enforcement officer, a qualified retired correctional officer, or a qualified retired probation
30 or parole certified officer is deemed to have satisfied the requirement under G.S. 14
31 415.12(a)(4) that an applicant successfully complete an approved firearms safety and training
32 course."

33 **SECTION 8.3.** This Part is effective when this act becomes law.
34

35 **PART IX. CONFORM STATE LAW/HALL V. FLORIDA**

36 **SECTION 9.1.** G.S. 15A-2005 reads as rewritten:

37 "~~§ 15A-2005. Mentally retarded defendants; Intellectual disability; death sentence~~
38 ~~prohibited.~~

39 (a) (1) The following definitions apply in this section:

40 a. ~~Mentally retarded. Intellectual disability.~~ – A condition marked by
41 Significantly—significantly subaverage general intellectual
42 functioning, existing concurrently with significant limitations in
43 adaptive functioning, both of which were manifested before the age
44 of 18.

45 b. Significant limitations in adaptive functioning. – Significant
46 limitations in two or more of the following adaptive skill areas:
47 communication, self-care, home living, social skills, community use,
48 self-direction, health and safety, functional academics, leisure skills
49 and work skills.

50 c. Significantly subaverage general intellectual functioning. – An
51 intelligence quotient of 70 or below.

1 (2) The defendant has the burden of proving significantly subaverage general
2 intellectual functioning, significant limitations in adaptive functioning, and
3 that ~~mental retardation~~ intellectual disability was manifested before the age
4 of 18. An intelligence quotient of 70 or below on an individually
5 administered, scientifically recognized standardized intelligence quotient test
6 administered by a licensed psychiatrist or psychologist is evidence of
7 significantly subaverage general intellectual functioning; however, it is not
8 sufficient, without evidence of significant limitations in adaptive functioning
9 and without evidence of manifestation before the age of 18, to establish that
10 the defendant ~~is mentally retarded~~ has an intellectual disability. An
11 intelligence quotient of 70, as described in this subdivision, is approximate
12 and a higher score resulting from the application of the standard error of
13 measurement to an intelligence quotient of 70 shall not preclude the
14 defendant from being able to present additional evidence of intellectual
15 disability, including testimony regarding adaptive deficits. Accepted clinical
16 standards for diagnosing significant limitations in intellectual functioning
17 and adaptive behavior shall be applied in the determination of intellectual
18 disability.

19 (b) Notwithstanding any provision of law to the contrary, no defendant ~~who is mentally~~
20 ~~retarded with an intellectual disability~~ shall be sentenced to death.

21 (c) Upon motion of the defendant, supported by appropriate affidavits, the court may
22 order a pretrial hearing to determine if the defendant ~~is mentally retarded~~ has an intellectual
23 disability. The court shall order such a hearing with the consent of the State. The defendant has
24 the burden of production and persuasion to demonstrate ~~mental retardation~~ intellectual
25 disability by clear and convincing evidence. If the court determines that the defendant to be
26 ~~mentally retarded~~ has an intellectual disability, the court shall declare the case noncapital, and
27 the State may not seek the death penalty against the defendant.

28 (d) The pretrial determination of the court shall not preclude the defendant from raising
29 any legal defense during the trial.

30 (e) If the court does not find that the defendant to be mentally retarded has an
31 intellectual disability in the pretrial proceeding, upon the introduction of evidence of the raising
32 the issue of intellectual disability ~~defendant's mental retardation~~ during the sentencing hearing,
33 the court shall submit a special issue to the jury as to whether the defendant ~~is mentally~~
34 ~~retarded~~ has an intellectual disability as defined in this section. This special issue shall be
35 considered and answered by the jury prior to the consideration of aggravating or mitigating
36 factors and the determination of sentence. If the jury determines that the defendant to be
37 ~~mentally retarded~~ has an intellectual disability, the court shall declare the case noncapital and
38 the defendant shall be sentenced to life imprisonment.

39 (f) The defendant has the burden of production and persuasion to demonstrate ~~mental~~
40 ~~retardation~~ intellectual disability to the jury by a preponderance of the evidence.

41 (g) If the jury determines that the defendant ~~is not mentally retarded~~ does not have an
42 intellectual disability as defined by this section, the jury may consider any evidence of ~~mental~~
43 ~~retardation~~ intellectual disability presented during the sentencing hearing when determining
44 aggravating or mitigating factors and the defendant's sentence.

45 (h) The provisions of this section do not preclude the sentencing of ~~a mentally retarded~~
46 an offender with an intellectual disability to any other sentence authorized by G.S. 14-17 for
47 the crime of murder in the first degree."

48 **SECTION 9.2.** This Part is effective when this act becomes law.

49
50 **PART X. CERTAIN POSTCONVICTION PROCEEDINGS/PROVIDE FILES**
51 **REQUIRED TO RESOLVE ISSUES**

1 **SECTION 10.1.** G.S. 15A-1415(f) reads as rewritten:

2 "(f) In the case of a defendant who is represented by counsel in postconviction
3 proceedings in superior court, the defendant's prior trial or appellate counsel shall make
4 available to the defendant's counsel their complete files relating to the case of the defendant. If,
5 upon motion by the defendant, a superior court judge finds that issues have been raised, or
6 could be raised, in the postconviction proceedings that require the State to make available to the
7 defendant the files of law enforcement and prosecutorial agencies involved in the investigation
8 of the crimes committed or the prosecution of the defendant, then the court shall order the State
9 to make available such parts of the files that are necessary for a full and complete resolution of
10 the issues. In postconviction proceedings filed by defendants with an offense date that occurred
11 prior to December 1, 2004, The the State, to the extent allowed by law, shall make available to
12 the defendant's counsel the complete files of all law enforcement and prosecutorial agencies
13 involved in the investigation of the crimes committed or the prosecution of the defendant. If the
14 State has a reasonable belief that allowing inspection of any portion of the files by counsel for
15 the defendant would not be in the interest of justice, the State may submit for inspection by the
16 court those portions of the files so identified. If upon examination of the files, the court finds
17 that the files could not assist the defendant in investigating, preparing, or presenting a motion
18 for appropriate relief, the court in its discretion may allow the State to withhold that portion of
19 the files."

20 **SECTION 10.2.** This Part becomes effective December 1, 2014, and applies to
21 postconviction proceedings commenced by filing on or after that date.

22

23 **PART XI. VENUS FLYTRAP LARCENY/FELONY.**

24 **SECTION 11.1.** G.S. 14-129 reads as rewritten:

25 "**§ 14-129. Taking, etc., of certain wild plants from land of another.**

26 (a) No person, firm or corporation shall dig up, pull up or take from the land of another
27 or from any public domain, the whole or any part of any ~~Venus flytrap (Dionaea muscipula),~~
28 trailing arbutus, Aaron's Rod (Thermopsis caroliniana), Bird-foot Violet (Viola pedata),
29 Bloodroot (Sanguinaria canadensis), Blue Dogbane (Amsonia tabernaemontana),
30 Cardinal-flower (Lobelia cardinalis), Columbine (Aquilegia canadensis), Dutchman's Breeches
31 (Dicentra cucullaria), Maidenhair Fern (Adiantum pedatum), Walking Fern (Camptosorus
32 rhizophyllus), Gentians (Gentiana), Ground Cedar, Running Cedar, Hepatica (Hepatica
33 americana and acutiloba), Jack-in-the-Pulpit (Arisaema triphyllum), Lily (Lilium), Lupine
34 (Lupinus), Monkshood (Aconitum uncinatum and reclinatum), May Apple (Podophyllum
35 peltatum), Orchids (all species), Pitcher Plant (Sarracenia), Shooting Star (Dodecatheon
36 meadia), Oconee Bells (Shortia galacifolia), Solomon's Seal (Polygonatum), Trailing Christmas
37 (Greens-Lycopodium), Trillium (Trillium), Virginia Bluebells (Mertensia virginica), and
38 Fringe Tree (Chionanthus virginicus), American holly, white pine, red cedar, hemlock or other
39 coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any
40 ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea,
41 without having in his possession a permit to dig up, pull up or take such plants, signed by the
42 owner of such land, or by his duly authorized agent. Any person convicted of violating the
43 provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of
44 not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. The
45 provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba,
46 Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gaston,
47 Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham, Rowan and
48 Swain.

49 (b) Any person who takes and carries away, or aids in taking or carrying away, any
50 Venus flytrap (Dionaea muscipula) plant or the seed of any Venus flytrap plant growing upon

1 the lands of another person with the intent to steal the Venus flytrap plant or seed is guilty of a
2 Class H felony."

3 **SECTION 11.2.** This Part becomes effective December 1, 2014, and applies to
4 offenses committed on or after that date.

6 **PART XII. INCREASE PENALTY FOR GRAFFITI VANDALISM**

7 **SECTION 12.1** Article 22 of Chapter 14 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 14-127.1. Graffiti vandalism.**

10 (a) Except as otherwise provided in this section, any person who engages in graffiti
11 vandalism of (i) any real property, whether public or private, or (ii) any public building or
12 facility, or any statue or monument situated in any public place, shall be guilty of a Class 1
13 misdemeanor. A person convicted of a Class 1 misdemeanor under this subsection shall be
14 fined a minimum of five hundred dollars (\$500.00) and required to perform 24 hours of
15 community service.

16 (b) Any person who violates subsection (a) of this section shall be guilty of a Class I
17 felony if either of the following apply:

18 (1) The cost to repair damage caused by the violation is in excess of one
19 thousand dollars (\$1,000).

20 (2) The person has two or more prior convictions for violation of this section.

21 (c) If a person is convicted of five or more violations of this section in a single session
22 of district court or in a single week of superior court, and at least five of the offenses occurred
23 within a 60-day period, the court shall consolidate the offenses for judgment and the
24 consolidated offenses shall be punishable as a Class I felony.

25 (d) As used in this section, "graffiti vandalism" means to unlawfully write or scribble
26 on, mark, paint, deface, besmear, or injure the walls of (i) any real property, whether public or
27 private, (ii) any public building or facility as defined in G.S. 14-132, or (iii) any statue or
28 monument situated in any public place, by any type of pen, paint, or marker regardless of
29 whether the pen or marker contains permanent ink, paint, or spray paint."

30 **SECTION 12.2.** This Part becomes effective December 1, 2014, and applies to
31 offenses committed on or after that date.

33 **PART XIII. UNFAIR USE OF CRIMINAL RECORD INFORMATION**

34 **SECTION 13.1.** Chapter 75 of the General Statutes is amended by adding a new
35 section to read:

36 **"§ 75-43. Unfair use of criminal record information.**

37 (a) The violation of any provision of this section shall be considered an unfair trade
38 practice, as prohibited by G.S. 75-1.1.

39 (b) A person commits a violation under this section if the person does both of the
40 following:

41 (1) Engages in publishing or otherwise disseminating, in print or over the
42 Internet, photographs of an individual taken pursuant to G.S. 15A-502(a)(1)
43 or G.S. 15A-502(a2) or authorized by G.S. 15A-502(b).

44 (2) Solicits or accepts the payment of a fee or other consideration to remove the
45 individual's photograph."

46 **SECTION 13.2.** This Part becomes effective December 1, 2014, and applies to
47 violations occurring on or after that date.

49 **PART XIV. EFFECTIVE DATE**

50 **SECTION 14.** Except as otherwise provided, this act is effective when it becomes
51 law.