

Criminal Law and Procedure

See full summary documents for additional detail

H39 - Labor/Up Amusement Device Penalties (SL 2015-152)

S.L. 2015-152 increases the civil and criminal penalties for the violation of safety laws pertaining to amusement devices, and directs the Department of Labor to study the need for regulation of zip-lines.

This act also creates a new Class E felony for willful violations of the Amusement Device Safety Act (Act) that results in serious injury or death.

The new Class E felony for willful violations of the Act became effective December 1, 2015, and applies to violations occurring on or after that date. Other changes to the statute governing violations, civil penalties, appeal, and criminal penalties under the Act became effective July 16, 2015, and apply to violations occurring on or after that date. The remainder of this act became effective July 16, 2015.

H55 - Public Exhibit of Fireworks/North Carolina State University (SL 2015-124)

S.L. 2015-124 exempts North Carolina State University (NCSU) from being required to obtain approval from the board of county commissioners to host pyrotechnic events on campus. This exemption is identical to The University of North Carolina's (UNC) exemption in current law for University-owned lands and buildings in Orange County. Just like UNC, NCSU must obtain a State permit from the State Fire Marshal for pyrotechnic events, as this act only exempts NCSU from also having to get permission from the board of county commissioners to host a pyrotechnic event in Wake County.

This act became effective June 29, 2015.

H97 - 2015 Appropriations Act, Sec. 17.3: Collect DNA/All Violent Felony Arrests (SL 2015-241)

Sec. 17.3 of S.L. 2015-241 expands the list of criminal offenses for which a DNA sample must be obtained for testing and analysis upon arrest to include additional violent felonies and requires a study of expanding the requirement to include all arrests for all felony offenses.

The expansion of offenses in this section became effective December 1, 2015, and applies to arrests occurring on or after that date. The provision directing the study became effective July 1, 2015.

H102 - Utility Vehicles/Move-Over Changes (SL 2015-26)

S.L. 2015-26 does the following:

- Authorizes utility vehicles, in addition to law enforcement officials, fire, rescue, and emergency medical services personnel, to operate all-terrain vehicles on roads with a speed limit of 35 miles per hour or less.
- Authorizes all municipal and county employees to operate all-terrain vehicles and utility vehicles on roads with a speed limit of 35 mph or less.
- Effective October 1, 2015, modifies the State "move over" law to include vehicles being used in the collection of refuse, solid waste, or recycling.

Except as otherwise provided, this act became effective May 21, 2015.

H113 - Protect Our Students Act (SL 2015-44)

S.L. 2015-44 increases the criminal penalty for the commission of certain sex offenses committed against a student by a person who is school personnel and establishes a procedure for institutions of higher education to obtain a list of students and employees at the institution who are registered as sex offenders.

This act became effective December 1, 2015.

H134 - Soliciting Prostitution/Immunity for Minors (SL 2015-183)

S.L. 2015-183 provides that a minor who is soliciting as a prostitute is immune from prosecution for the offense of solicitation of prostitution.

This act became effective August 5, 2015, and applies to violations occurring on or after that date.

H173 - Omnibus Criminal Law Bill (SL 2015-247)

S.L. 2015-247 amends various criminal laws by doing the following:

- Extending the period of time to avoid the court costs for failure to pay.
- Directing the Administrative Office of the Courts to report on certain orders of remand from superior court.
- Revising the law authorizing a chief district court judge to designate certain magistrates to appoint counsel, and authorizing magistrates to perform certain functions.
- Clarifying the law pertaining to probation revocation appeals.
- Conforming State law with United States Supreme Court decisions relating to individuals with intellectual disability.
- Making a conforming change to petition for judicial review.
- Providing that expunction information may be transmitted electronically or by facsimile.
- Providing that doubling of bond is permissive rather than mandatory for certain defendants.
- Amending statutory provisions pertaining to disposition of certain physical evidence that may contain biological evidence.
- Amending the rules of evidence to allow certification by the custodian of a business record to show the authenticity of the record.
- Amending laws relating to bail bond continuing education.

This act has various effective dates; please see the full summary for more detail.

H215 - Procedure for Waiver of Jury Trial (SL 2015-289)

S.L. 2015-289 establishes the procedure for waiver of the right to a jury trial in criminal cases in superior court. See the full summary for details of those procedures.

This act became effective October 1, 2015, and applies to defendants waiving their right to trial by jury on or after that date.

H273 - Clarify Conditional Discharge Law/No Driving While Impaired Expunction (SL 2015-150)

S.L. 2015-150, as amended by Sec. 39 of S.L. 2015-264, clarifies that the provisions regarding deferred prosecution and conditional discharge for convictions of H and I felonies and misdemeanors under Structured Sentencing do not apply to convictions of impaired driving and that offenses involving impaired driving cannot be expunged.

The provision relating to deferred prosecution and conditional discharge became effective December 1, 2015, and applies to any order placing a person on probation on or after that date. The provisions pertaining to expunctions became effective July 1, 2015, and apply to petitions filed and pending on or after that date.

H294 - Prohibit Cell Phone/Delinquent Juvenile (SL 2015-47)

S.L. 2015-47 makes it a criminal offense to provide a cell phone to a delinquent juvenile in custody of the Department of Public Safety.

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

H297 - End Marketing/Sale Unborn Children Body Parts (SL 2015-265)

S.L. 2015-265 prohibits the sale of the remains of an unborn child resulting from an abortion, or of any aborted material. The act also prohibits the Department of Health and Human Services from allocating funds to support contracts with any abortion providers that provide family planning services, pregnancy prevention activities, or adolescent parenting programs under the Teen Pregnancy Prevention Initiatives.

This act became effective October 1, 2015, and the provisions prohibiting the sale of the remains of an unborn child apply to offenses committed on or after that date.

H371 - Terror Claims/Damages/Liability for Support, Sec. 2.5: National Guard Concealed Weapons (SL 2015-215)

Sec. 2.5 of S.L. 2015-215 exempts members of the North Carolina National Guard who have been designated in writing by the Adjutant General, who have a concealed handgun permit, and who are acting in the discharge of their official duties from the general prohibition against carrying a concealed weapon.

This section became effective August 18, 2015.

H383 - Clarify Statutory Scheme/Sex Offenses (SL 2015-181)

S.L. 2015-181 reorganizes, renames, and renumbers various sexual offenses to make them more easily distinguishable from one another, as recommended by the North Carolina Court of Appeals in a published opinion. The act also clarifies that to be guilty of statutory rape or statutory sexual offense with a person who is 15 years of age or younger, the defendant must be at least 12 years old.

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

H397 - Clarify Protections/Exploitation of Elders (SL 2015-182)

S.L. 2015-182 clarifies the procedures to be followed when a defendant is convicted for exploitation of an older adult or disabled adult and seized assets are used to satisfy the defendant's restitution obligation as ordered by the court. The act specifies the procedures for serving the order, freezing or seizing the assets, and satisfying the order of restitution if the defendant pleads guilty or no contest to the criminal charges.

This act became effective October 1, 2015, and applies to offenses committed on or after that date.

H465 - Women and Children's Protection Act of 2015 (SL 2015-62)

S.L. 2015-62 modifies certain criminal laws pertaining to sexual crimes and offenders; permits electronic filing of documents in specified domestic violence and civil no-contact proceedings; makes administrative changes to improve child support collection and payment; and establishes a Maternal Mortality Review (MMR) Committee within the Department of Health and Human Services; and makes various changes to North Carolina's abortion laws.

Section 1 changes the offense of statutory rape to apply to engaging in a sexual act with a person who is 15 years old or younger, rather than with someone who is 13, 14, or 15 years old. This section became effective December 1, 2015, and applies to offenses committed on or after that date.

Section 2 makes administrative changes to improve collection and payment of child support to families. This section became effective June 5, 2015.

Section 3 permits electronic filing of certain documents in Chapter 50B and 50C cases under local rules approved by the Administrative Office of the Courts or under any uniform State rules adopted by the North Carolina Supreme Court. Sections 3.(b) through 3.(e) became effective December 1, 2015, and apply to documents filed and hearings held on or after that date; Section 3.(a) directing the establishment of rules became effective June 5, 2015.

Section 4 makes the following statutory amendments, effective December 1, 2015, and applies to offenses committed on or after that date:

- Section 4.(a) provides an aggravating sentencing factor for knowingly committing an offense that is seen or heard by a minor who is not an accomplice to the offense.
- Section 4.(b) clarifies that an assault is committed "in the presence of a minor" when the minor can see or hear the assault.
- Section 4.(c) permits the court to impose conditions of pretrial release in domestic violence cases to protect persons the defendant is dating or has dated.

Section 5 extends the prohibition against certain sex offenders being on premises frequented by minors to sex offenders committed of federal crimes or crimes in other states that are substantially similar to sex offenses under State law. This section became effective December 1, 2015, and applies to offenses committed on or after that date.

Section 6 establishes the Maternal Mortality Review Committee within the Department of Health and Human Services. The Committee is directed to reduce maternal mortality in North Carolina by conducting multidisciplinary maternal death reviews and developing recommendations for the prevention of future maternal deaths. This section became effective December 1, 2015.

Section 7 makes various changes to North Carolina's abortion laws. (Please see the full summary for more detail.) The substantive provisions regarding abortion laws become effective January 1, 2016, and apply to abortions performed or attempted on or after that date; the remainder of this Section became effective October 1, 2015, and applies to abortions performed or attempted on or after that date.

Except as otherwise provided, this act became effective June 5, 2015.

H529 - North Carolina Drivers License Restoration Act (SL 2015-186)

S.L. 2015-186, as amended by Sec. 86 of S.L. 2015-264, limits the imposition of an additional period of revocation upon a conviction of driving while license revoked (DWLR) and makes various conforming changes.

This act became effective December 1, 2015, and applies to offenses committed on or after that date. Prosecutions for offenses prior to December 1, 2015 are not abated or affected.

H552 - Graffiti Vandalism (SL 2015-72)

S.L. 2015-72 creates the criminal offense of graffiti vandalism for anyone who unlawfully writes, scribbles on, marks, paints, defaces, or besmeares the walls of any real property, any public building or

facility, or any statue or monument situated in a public place. The offense is a Class 1 misdemeanor with a mandatory fine of \$500, but may be elevated to a Class H felony under certain circumstances.

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

H560 - Assault Emergency Workers/Hospital Personnel (SL 2015-97)

S.L. 2015-97 makes it a felony to assault hospital personnel and licensed healthcare providers who are providing or attempting to provide health care services to a patient in a hospital.

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

H562 - Amend Firearm Laws (SL 2015-195)

S.L. 2015-195, as amended by Sec. 2 of S.L. 2015-267, amends various firearm laws. Please see the full summary for an explanation of the changes and the corresponding effective dates.

H566 - Amend Eyewitness Identification/Show-Up (SL 2015-212)

S.L. 2015-212 amends the Eyewitness Identification Reform Act to clarify that law enforcement officers may be eyewitnesses; to set minimum standards for show-ups; and to require the North Carolina Criminal Justice Education and Training Standards Commission to develop additional policies on the conduct of show-ups. The policies required to be adopted by the North Carolina Criminal Justice Education and Training Standards Commission must be adopted by August 1, 2016, and become applicable to all law enforcement on August 1, 2016.

Except as otherwise provided, this act became effective December 1, 2015, and applies to eyewitness identifications and show-ups conducted on or after that date.

H659 - Controlled Substances/Update Precursor List (SL 2015-32)

S.L. 2015-32 updates the list of methamphetamine precursor chemicals, and clarifies what constitutes certain drug offenses involving methamphetamine.

This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

H691 - Assault on National Guard Member (SL 2015-74)

S.L. 2015-74 makes it a felony to commit the following types of assaults on a member of the North Carolina National Guard who is discharging or attempting to discharge official duties: (i) assault inflicting serious bodily injury; (ii) assault inflicting physical injury; (iii) assault with a firearm.

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

H765 - Regulatory Reform Act of 2015, Sec. 1.1: Repeal Obsolete Statutes (SL 2015-286)

Sec. 1.1 of S.L. 2015-286 repeals obsolete provisions in the criminal law related to using profane or indecent language on public highways and refusing to relinquish a party telephone line in an emergency.

This section became effective October 22, 2015.

H765 - Regulatory Reform Act of 2015, Secs. 3.3 and 3.4: Good Samaritan Expansion (SL 2015-286)

Secs. 3.3 and 3.4 of S.L. 2015-286 expand the Good Samaritan exception to allow entering of certain types of property in order to provide emergency assistance.

These sections became effective December 1, 2015, and apply to offenses committed on or after that date and causes of action arising on or after that date.

H774 - Restoring Proper Justice Act (SL 2015-198)

S.L. 2015-198 authorizes a medical professional other than a physician to monitor lethal injection for death penalty executions and clarifies that matters relating to executions are not subject to rulemaking.

This act became effective August 5, 2015.

H792 - Privacy/Protection From Revenge Postings (SL 2015-250)

S.L. 2015-250 makes the following changes:

- Creates a criminal offense and a civil cause of action for knowingly disclosing with the intent to cause certain harms certain images of intimate parts or depicting sexual conduct in which there is a reasonable expectation of privacy.

- Requires the Joint Legislative Oversight Committee on Justice and Public Safety to study improper disclosure of images of people superimposed onto other images exposing intimate parts or depicting sexual conduct.
- Creates three new criminal offenses related to exposure of private parts on private premises.

This act became effective December 1, 2015, and applies to offenses committed on or after that date and to actions initiated on or after that date.

S2 - Magistrates Recusal for Civil Ceremonies (SL 2015-75)

S.L. 2015-75 established procedures by which a magistrate may recuse himself or herself from performing all lawful marriages and an assistant or deputy register of deeds may recuse himself or herself from issuing all lawful marriage licenses, based upon a sincerely held religious objection. The recusal is for a minimum of six months and continues until the recusal is rescinded in writing. Officials so recusing themselves would not be subject to prosecution for failing to perform the duties imposed upon them by law.

Each register of deeds must ensure that all qualified applicants for marriage licenses are issued a license, and each chief district court judge must ensure that marriages performed by a magistrate are available to be performed during at least 10 hours per week over at least 3 business days.

S.L. 2015-75 also provides protection against loss of employment and retirement benefits for magistrates who resigned or were terminated from between October 6, 2014, and June 11, 2015, and who are subsequently reappointed to the position of magistrate within 90 days after June 11, 2015.

This act became effective June 11, 2015

S60 - No-Contact Order/No Expiration (SL 2015-91)

S.L. 2015-91 allows a victim (or a competent adult on behalf of a minor victim or incompetent person) of a sexual offense to obtain a permanent civil no-contact order against the person convicted of committing the offense, establishes the procedure for obtaining such an order, clarifies the penalties for violations of protective orders, and allows an extension of orders entered in street gang nuisance abatement cases after a court hearing. The provisions pertaining to permanent civil no-contact order orders became effective October 1, 2015. The provision on penalties for violations of protective orders became effective December 1, 2015, and applies to offenses committed on or after that date.

Except as otherwise provided, this act became effective June 19, 2015.

S78 - Off-Duty Correctional Officers/Conceal Carry (SL 2015-5)

S.L. 2015-5 allows State correctional officers to carry a concealed weapon when off-duty. If the concealed weapon is a handgun, the officer must meet departmental firearms training standards.

This act became effective December 1, 2015.

S83 - Criminal Law/Filing False Document (SL 2015-87)

S.L. 2015-87 amends the law to specify the procedures to be followed by registers of deeds and clerks of court when they suspect that a document presented for filing or recording is false.

This act became October 1, 2015, and applies to all filings on or after that date.

S90 - Required Number of Operating Brake Lights (SL 2015-31)

S.L. 2015-31, as amended by Sec. 29.36B of S.L. 2015-241, clarifies State law to require motor vehicles manufactured on or after December 31, 1970, to have two operable stop lamps.

This act became effective October 1, 2015, and applies to offenses committed on or after that date.

S154 - Clarifying the Good Samaritan Law (SL 2015-94)

S.L. 2015-94 does the following:

- Imposes additional statutory requirements that must be met before a person can receive immunity from criminal prosecution when seeking medical attention for someone suffering from a drug- or alcohol- related overdose.
- Prohibits arresting a person or revoking a person's pretrial release, probation, parole or post-release based on an offense for which that person is entitled to statutory immunity.
- Grants immunity from civil liability to law enforcement officers who, in good faith, arrest or charge persons later found to be entitled to statutory immunity.
- Provides that nothing in G.S. 90-96.2 bars admission of evidence of crimes by a person not entitled to immunity, limits seizure of evidence or contraband otherwise permitted by law, limits a law enforcement officer's authority to detain or take into custody a person during an arrest for or investigation of offenses other than those for which limited immunity is provided in G.S. 90-96.2, or limits a probation offer's authority to conduct drug testing on persons on pretrial release, probation, or parole.
- Amends the statutes governing the treatment of overdose with opioid antagonist to authorize pharmacists to dispense an opiate antagonist prescribed to a person at risk of experiencing an opiate-related overdose or to a family member, friend, or other person in a position to assist that person, and to grant pharmacists immunity from civil and criminal liability for dispensing an opiate antagonist pursuant to this authority.

This act became effective August 1, 2015, and applies to offenses committed on or after that date.

S212 - Handgun Standards for Retired Sworn Law Enforcement Officer (SL 2015-105)

S.L. 2015-105, as amended by Sec. 36 of S.L. 2015-264, allows successful completion by a retired sworn law enforcement officer of the handgun qualifications for active sworn law enforcement officers to be sufficient for purposes of obtaining a concealed handgun permit.

This act became effective October 1, 2015.

S233 - Automatic Expunction/Mistaken Identity (SL 2015-202)

S.L. 2015-202 provides for the automatic expunction of certain records of a person when the charge or charges against the person are dismissed as a result of identity theft or mistaken identity.

This act became effective December 1, 2015, and applies to charges filed on or after that date.

S238 - Stalking by GPS/Criminal Offense (SL 2015-282)

S.L. 2015-282 provides that a person commits the offense of cyberstalking if the person knowingly installs or places a tracking device without consent and uses the device to track an individual's location, unless one of 11 exceptions are met.

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

S286 - Regulate the Sale of E-Liquid Containers (SL 2015-141)

S.L. 2015-141 creates a new statute to: (i) make it unlawful to sell e-liquid containers without child-resistant packaging; (ii) prohibit the sale of an e-liquid product containing nicotine unless the packaging states that the product contains nicotine; (iii) provide that violation of each of the foregoing prohibitions is a Class A1 misdemeanor; (iv) and provide that any person, firm, or corporation would be liable for damages as a result of selling e-liquid containers without child-resistant packaging and any required labeling. The new statute defines the following terms: 'child-resistant packaging;' 'e-liquid;' 'e-liquid container;' and 'vapor product.'

This act became effective December 1, 2015, and applies to offenses committed on or after that date.

S445 - Burt's Law (SL 2015-36)

S.L. 2015-36 enhances protections for clients of facilities whose primary purpose is to provide services for the care, treatment, habilitation, and rehabilitation of individuals with mental illness, developmental disabilities, or substance abuse disorders.

This act increases punishments for client abuse, exploitation, or neglect; imposes a reporting requirement on employees and volunteers who witness a sexual offense or offense against morality perpetrated against a client; and makes the failure to report these violations a Class A1 or Class 1 misdemeanor.

Also, this act adds a requirement that the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (the Commission) establish standardized procedures to train and keep records of the measures used to comply with the employee and volunteer reporting requirements in G.S. 122C-66.

The section of this act pertaining to the duties of the Commission became effective May 26, 2015. The remainder of this act became effective December 1, 2015, and applies to offenses committed on or after that date.

S446 - Dealer Loaners/Unmanned Aircraft/Brunswick County, Part II: Unmanned Aircraft Systems Changes (SL 2015-232)

Part II of S.L. 2015-232 clarifies that agents or agencies of the State or a political subdivision of the State have the authority to procure and operate unmanned aircraft systems upon approval of the State Chief Information Officer, and modifies State regulation of unmanned aircraft systems to comply with federal guidelines.

This part became effective August 25, 2015.

S675 - Limit Parole Review Frequency (SL 2015-228)

S.L. 2015-228 limits the frequency of parole review for inmates convicted of sexually violent offenses.

This act became effective October 1, 2015, and applies to parole reviews conducted on or after that date.