

Criminal Law and Procedure

See full summary documents for additional detail

H253 - Justice Reinvestment Act Changes. (SL 2016-77)

S.L. 2016-77 makes changes to the authority of probation officers with respect to setting conditions of probation, post-release, and parolees, to further implement the Justice Reinvestment Act of 2011.

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

H283 - Prevent Squatting in Foreclosed Real Property. (SL 2016-26)

S.L. 2016-26 increases criminal penalties for persons who commit a trespass to real property by reentering after removal pursuant to a valid order or by knowingly creating or presenting a false document of title or possession.

This act becomes effective December 1, 2016, and applies to offenses committed on or after that date.

H292 - Beach Bingo Licenses. (SL 2016-27)

S.L. 2016-27 requires a license to operate a beach bingo game. The initial application fee is \$300, and the annual renewal fee is \$300. The act also criminalizes operating a beach bingo game without a license and providing false information on a license application as Class 2 misdemeanors.

Beginning October 1, 2016, the State Bureau of Investigation may accept applications, charge and collect application fees, and issue licenses. Providing false information on an application is a Class 2 misdemeanor beginning October 1, 2016. Operating a beach bingo game without a license is a Class 2 misdemeanor beginning December 1, 2016. The remainder of this act became effective June 22, 2016.

H357 - Chemical Analysis Reports/District Court. (SL 2016-10)

S.L. 2016-10 amends the procedures governing the admissibility of chemical analysis test results into evidence.

This act becomes effective October 1, 2016, and applies to trials commencing on or after that date.

H424 - Prohibit Unlawful Custody Transfer of Child. (SL 2016-115)

S.L. 2016-115 creates a new law in the statutes governing the protection of minors to prohibit the unlawful transfer of custody of a minor child and provide a Class A1 misdemeanor for general violation

of the offense, as well as a Class G felony for a violation that results in serious physical injury to the child. The act also makes general conforming changes, clarifies that the prohibition against advertising adoptions applies to communications via email and other internet communications, and directs the Department of Health and Human Services to develop support programs for families at risk of adoption dissolutions.

The new criminal offense and conforming statutory changes become effective December 1, 2016, and apply to offenses committed on or after that date. The clarification on advertising adoptions and the remainder of the act became effective July 28, 2016.

H678 - Amend Innocence Commission Statutes. (SL 2016-73)

S.L. 2016-73 amends the process to claim factual innocence and makes changes to the Innocence Inquiry Commission (Commission) proceedings in the following ways:

- Directs the Commission Director to report to the Director of the Administrative Office of the Courts (AOC), who must consult with the Commission Chair.
- Limits the types of direct claims made by prisoners to specific felonies while any other claims must be referred by counsel.
- Creates a process to address co-defendants in a pending claim of factual innocence.
- Requires a confidential case status update by the Commission Director at least every six months.
- Specifies the parties that should be served with notice at various points in the Commission investigation.
- Requires that the final, full Commission meetings be public.
- Authorizes the District Attorney and defense counsel to bypass the Commission by consenting to judicial review.
- Makes the Commission's entire file available to both the district attorney and defense counsel if the case goes forward to judicial review.
- Clarifies counsel for indigent people would be appointed by the Indigent Defense Services and requests for specific legal counsel would be taken into consideration.

This act became effective August 1, 2016, and applies to any claim filed on or after that date and any claim pending on that date. However, nothing in this act abates a claim filed prior to that date or invalidates any action taken on a claim prior to that date.

H958 - Felony Death Impaired Boating/Sheyenne's Law. (SL 2016-34)

S.L. 2016-34 creates new offenses for death or serious injury resulting from impaired boating and clarifies the penalty for impaired boating. Please see the full summary for an explanation of those offenses and the penalty level for each offense.

This act becomes effective December 1, 2016, and applies to offenses committed on or after that date.

H972 - Law Enforcement Recordings/No Public Record. (SL 2016-88)

S.L. 2016-88 does the following with respect to recordings made by law enforcement agencies:

- Provides that they are not public records.
- Establishes whether, to whom, and what portions of a recording may be disclosed or a copy released.
- Establishes the procedure for contesting a refusal to disclose a recording or to obtain a copy of a recording.
- Directs State or local law enforcement agencies to provide, upon request, access to a method to view and analyze recordings to the State Bureau of Investigation (SBI) and the North Carolina State Crime Laboratory (State Crime Lab).

Effective July 11, 2016, the act authorizes governmental and nongovernmental organizations to establish and operate hypodermic syringe and needle exchange programs and provides limited immunity from criminal prosecution to employees, volunteers, and participants of authorized hypodermic syringe and needle exchange programs.

The provisions of the act related to the disclosure and release of recordings made by law enforcement agencies become effective October 1, 2016, and apply to all requests made on or after that date for the disclosure or release of a recording.

H992 - Amend Industrial Hemp Program. (SL 2016-93)

S.L. 2016-93 expands the membership of the Industrial Hemp Commission (Commission) from five members to nine, (ii) clarifies the powers and duties of the Commission, including granting rulemaking authority to the Commission and providing that the industrial hemp research program must be managed and coordinated by State land grant universities, (iii) sets out specific responsibilities of licensees and authorized research purposes for the industrial hemp program, including the commercial sale and marketing of industrial hemp, (iv) creates civil and criminal penalties for various violations of the industrial hemp program, and (v) amends the definition of marijuana to allow for the production of industrial hemp when the Commission adopts temporary rules to implement the industrial hemp program.

The civil and criminal penalties become effective December 1, 2016, and apply to offenses committed on or after that date. The remainder of the act became effective July 11, 2016.

H1021 - Amend Sex Offender Certain Premises. (SL 2016-102)

S.L. 2016-102 modifies the law regarding sex offenders on certain premises by limiting the application of certain portions of the law to certain sex offenders and by rewording other portions of the law to address constitutional issues noted by the ruling in *Doe v. Cooper*.

This act became effective September 1, 2016, and applies to offenses committed on or after that date.

H1030 - 2016 Appropriations Act.

Sec. 14.15: Right of Entry Clarification. (SL 2016-94)

Sec. 14.15 of S.L. 2016-94 creates a new law in the statutes governing the administration provisions and regulatory authority of the Marine Fisheries Commission and the Department of Environmental Quality to provide that the Secretary of Environmental Quality and a local health director has the delegable right of entry upon the premises of any place where entry is necessary to enforce rules for sanitation for the harvesting, processing and handling of scallops, shellfish, and crustacea. If consent for entry is not obtained, an administrative search and inspection warrant must be obtained in accordance with Chapter 15 of the General Statutes. However, if an imminent hazard exists, no warrant is required for entry.

This section became effective July 1, 2016.

S508 - Amend Bail Bond/Collection Agency/Criminal Mediation Laws. (SL 2016-107)

S.L. 2016-107 makes the following changes to laws relating to bail bonds, collection agencies, and mediation of misdemeanor criminal cases:

- Terminates a surety's obligation under a bail bond under specified circumstances.
- Requires a bond forfeiture judgment to be paid in full before any professional bail bondsman, runner or bail agent listed on that bond can sign any other bond elsewhere in the State.
- Expands the Commissioner of Insurance's disciplinary authority over bail bondsmen and runners.
- Updates and modernizes certain laws related to collection agencies.
- Amends procedures for mediation of certain misdemeanor criminal cases.

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

S770 - North Carolina Farm Act of 2016.

Sec.1: Provide the Department of Agriculture and Consumer Services with Enforcement Authority for the Program Governing Bedding Improperly Made, Sanitized, or Tagged. (SL 2016-113)

Sec. 1 of S.L. 2016-113 grants the Department of Agriculture and Consumer Services (DACS) several new powers to enforce the DACS bedding sanitation program. This section grants DACS the authority to detain or embargo bedding products suspected of being adulterated or misbranded, and allows DACS to petition for the products to be condemned. This section also authorizes the Commissioner of Agriculture (Commissioner) to petition the superior court for an injunction and assess a civil penalty of not more than \$2,500 against a person in violation of the bedding laws. This section also makes a violation of the bedding laws a Class 2 misdemeanor. If a person receives written notice of a violation from the Commissioner and continues to violate the Article, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation.

This section becomes effective December 1, 2016, and applies to offenses committed on or after that date.

S770 - North Carolina Farm Act of 2016.

Sec. 9: Allow Chorionic Gonadotropin Injections for Veterinary Use. (SL 2016-113)

Sec. 9 of S.L. 2016-113 exempts chorionic gonadotropin from the list of Schedule III controlled substances when administered by injection for veterinary use by a licensed veterinarian or the veterinarian's designated agent.

This section became effective July 26, 2016.