

## 2019 Legislation Affecting Criminal Law and Procedure

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Below are summaries of 2019 legislation affecting criminal law and procedure, enacted before the North Carolina General Assembly adjourned on November 15, 2019 (to reconvene on January 14, 2020). To obtain the text of the legislation, click on the link provided below or go to the General Assembly's website, [www.ncleg.gov](http://www.ncleg.gov). Be careful to note the effective date of each piece of legislation.

1. **S.L. 2019-13 (H 130): Game nights east of I-26.** Effective June 1, 2019 and applicable to areas of the state located east of I-26 as that interstate highway was located on November 28, 2011, the act adds a new Part 4, Game Nights, to G.S. Chapter 14, Article 37, Lotteries, Gaming, Bingo and Raffles. The new part, G.S. 14-309.25 through 14-309.37, makes it lawful for a tax-exempt organization, defined in G.S. 14-309.25, to conduct a game night at a qualified facility, defined in G.S. 18B-1000(5a) as a facility that has a permit to serve beer, wine, and mixed beverages. The part details the permits required, limits on events, permissible prizes, types of games (slot machines and like devices remain prohibited under new G.S. 14-309.37), and use of proceeds. If an exempt organization conducts a game night in violation of the new part, the person who applied for the permit is guilty of a Class 2 misdemeanor under new G.S. 14-309.26(b). A game night conducted other than in accordance with the provisions of the new part constitutes gambling within the meaning of G.S. 14-292 and G.S. Chapter 19, Article 1, Abatement of Nuisances. The act also allows employers with 25 or more employees to hold game nights for employees, guests, or a trade association with 25 or more members in accordance with the requirements of new G.S. 14-309.34. The new part exempts from the prohibitions on gaming tables and gaming equipment the possession or transportation of such equipment for game nights in compliance with new G.S. 14-309.35 and 14-309.36. G.S. 14-309.35(b) makes it a Class 1 misdemeanor to use a gaming table or gaming equipment not registered with the Alcohol Law Enforcement Branch of the Department of Public Safety. G.S. 14-309.36 prohibits issuance of a permit to a person who has a prior gambling conviction within the previous five years, any pending gambling charges, any active order prohibiting involvement in gambling, and any felony conviction regardless of the nature or date of the offense. The same disqualifiers apply to employment of a person by a game night vendor. The Department of Public Safety must report to the 2020 General Assembly about game night activities and make any recommendations to modify the law.
2. **S.L. 2019-33 (H 301): Juvenile Code revisions.** Effective October 1, 2019, revised G.S. 7B-101(18a) expands the definition of "responsible individual," a designation that affects a person's ability to adopt, foster, or care for children and obtain employment in the childcare field. The revised definition designates as a responsible individual a person who is

responsible for subjecting a juvenile to human trafficking under G.S. 14-43.11, 14-43.12, or 14.43.13. Revised G.S. 7B-324(a1) provides that the court must dismiss a petition for judicial review of placement on the Responsible Individuals List (RIL) if the petitioner has been convicted as a result of the incident that resulted in placement on the RIL. The act also adds G.S. 7B-3100(c), which states that a juvenile’s guardian ad litem attorney advocate appointed under G.S. 7B-601 in an abuse and neglect proceeding may share confidential information about the juvenile with the attorney representing the juvenile in a delinquency or undisciplined matter. For further discussion, see Jacquelyn Greene, [New Delinquency Laws—It’s Not Just Raise the Age](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Sep. 24, 2019).

3. **[S.L. 2019-36 \(H 82\): Railroad signals and crossings.](#)** Effective for offenses committed on or after December 1, 2019, the act revises several statutes to require vehicles to follow the stopping rules at railroad crossings and signals for on-track equipment as well as trains. See G.S. 20-4.10(24)(b), 20-142.1(a), 20-142.3(a), (b), 20-142.4(c), 20-142.5.
4. **[S.L. 2019-40 \(S 151\): Breaking and entering a pharmacy.](#)** Effective for offenses committed on or after December 1, 2019, the act enacts G.S. 14-54.2(b) to create a new crime, a Class E felony, for a person to
  1. break or enter
  2. a pharmacy permitted under G.S. 90-85.21
  3. with the intent to commit a larceny
  4. of a controlled substance as defined in G.S. 90-87.5.

Unless the conduct is covered by another provision of law providing for greater punishment, new G.S. 14-54.2(c) makes it a Class F felony for a person

1. who receives or possesses
2. any controlled substance
3. stolen in violation of new G.S. 14-54.2(b)
4. knowing or having reasonable grounds to believe the controlled substance was stolen.

New G.S. 14-54.2 provides that any interest in property obtained in violation of G.S. 14-54.2 is subject to forfeiture under G.S. 90-112.

5. **[S.L. 2019-41 \(H 617\): Teen court.](#)** Effective June 21, 2019, revised G.S. 7B-1706(c) allows a juvenile court counselor to refer a case to a teen court program regardless whether the juvenile previously had been referred to teen court. For further discussion, see Jacquelyn Greene, [New Delinquency Laws—It’s Not Just Raise the Age](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Sep. 24, 2019).
6. **[S.L. 2019-47 \(H 415\): Photograph of juvenile during show-up.](#)** Effective June 26, 2019, revised G.S. 15A-284.52(c1), a part of the Eyewitness Identification Reform Act, requires an investigator to photograph a juvenile suspect who is 10 years of age or older at the time and place of a show-up if the juvenile is reported to have committed a nondivertible offense

under G.S. 7B-1701 or common law robbery. G.S. 15A-284.52(c1) has generally required a photograph of a suspect in a show-up but did not specifically state whether the requirement applied to juveniles. Photographs of juveniles in show-ups must be retained or disposed of as required by G.S. 7B-2108, except the law enforcement agency must certify in writing that it has destroyed the photograph if a petition is filed. Such photographs are not public records and may not be examined without a court order except by the juvenile, juvenile's attorney, juvenile's parent or guardian, prosecutor, and court counselors. For further discussion, see Jacquelyn Greene, [New Delinquency Laws—It's Not Just Raise the Age](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Sep. 24, 2019).

7. **[S.L. 2019-48 \(S 148\)](#): Release of body cam and dash cam recordings.** Effective June 26, 2019, revised G.S. 132-1.4A(h) allows law enforcement agencies to release recordings, including body camera and dashboard camera recordings, for the purpose of suspect identification or apprehension and to locate a missing or abducted person. For a further discussion of the law governing release of recordings, see Jeff Welty, [Body Camera Footage May Now Be Released for "Suspect Identification or Apprehension"](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Aug. 26, 2019).
8. **[S.L. 2019-62 \(S 262\)](#): Hunting and fishing on private property without permission and hunting while impaired in Union County.** Effective for offenses committed on or after October 1, 2019, and applicable to Union County only, this local act makes it a Class 2 misdemeanor for a person to: hunt or fish on another's property without written permission; or hunt on another's property while under the influence of any impairing substance or with an alcohol concentration of .08 or more.
9. **[S.L. 2019-70 \(H 934\)](#): Stem cells.** Effective for acts committed on or after December 1, 2019, new G.S. 90-325.14 makes it a Class A1 misdemeanor to knowingly offer to buy, offer to sell, acquire, receive, sell, or otherwise transfer any adult stem cells for valuable consideration for use in an investigational adult stem cell treatment.
10. **[S.L. 2019-77 \(S 529\)](#) Increased processing fee for worthless checks.** Effective for checks dated on or after October 1, 2019, revised G.S. 25-3-506 increases from \$25 to \$35 the maximum processing fee that may be assessed by a person who accepts a check in payment for goods and services when payment on the check is refused by the payor bank because of insufficient funds or because the drawer did not have an account at that bank.
11. **[S.L. 2019-83 \(H 474\)](#): Death by distribution of certain controlled substances.** Effective for offenses committed on or after December 1, 2019, new G.S. 14-18.4 creates two new offenses. A person is guilty of death by distribution of certain controlled substances if the person
  1. unlawfully and without malice
  2. sells

3. at least one certain controlled substance, defined in new G.S. 14-18.4(d) as any opium, opiate, or opioid; any synthetic of those substances; cocaine or derivative described in G.S. 90-90(1)(d); methamphetamine; depressant described in G.S. 90-92(a)(1); or mixture of one or more of these substances, and
4. ingestion of the substance causes the user's death, and
5. the sale was the proximate cause of the death.

The principal difference between this new crime and murder by distribution of controlled substances under current G.S. 14-17(b)(2) is that the new crime does not include malice as an element.

A person is guilty of aggravated death by distribution of certain controlled substances if, in addition to the above, the person has a previous conviction under new G.S. 14-18.4 or for other specified controlled substances offenses within the previous seven years. Any period of incarceration is excluded from the seven-year period.

Unless the conduct is covered under another provision providing for greater punishment, death by distribution of certain controlled substances is a Class C felony and aggravated death by distribution is a Class B2 felony. The new statute does not prohibit lawful distribution as defined in subsection (g) of the statute. It remains a Class B2 felony under current G.S. 14-17(b)(2). For further discussion, see Shea Denning, [General Assembly Creates New Crime of Death by Distribution](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 18, 2019).

12. **[S.L. 2019-84 \(H 67\): Roadway construction barriers.](#)** Effective for offenses committed on or after December 1, 2019, amended G.S. 136-26 makes it a Class 1 misdemeanor to drive onto transportation infrastructure closed to the public due to damage posing a danger to public safety. The amended statute exempts various personnel, including law enforcement officers and Department of Transportation personnel.
13. **[S.L. 2019-91 \(H 770\): Limitations on consideration of criminal convictions for occupational licenses.](#)** Effective for certificates of relief granted or applications for licensure submitted on or after October 1, 2019, the act limits in the following ways consideration of criminal convictions for occupational licensing and other decisions.

Many occupational licensing statutes in North Carolina have allowed or required licensing boards to disqualify a person from obtaining a license if he or she has been convicted of a crime of one kind or another. This authority usually appeared in the chapter of the General Statutes governing the occupation. In 2013, the General Assembly revised Chapter 93B, which governs licensing boards generally, to restrict consideration of a criminal conviction. G.S. 93B-8.1 has provided that an occupational licensing board could not automatically deny licensure based on an applicant's criminal record unless the law governing the board provided otherwise. It also directed licensing boards to consider various factors in deciding whether to deny licensure.

The act goes much further in the following new and amended provisions, including amended G.S. 93B-8.1.

- G.S. 93B-1 makes Chapter 93B applicable to state agency licensing boards as well as occupational licensing boards. The amended section includes a nonexclusive list of state agency licensing boards, such as licensing boards within the Department of Health and Human Services, Department of Labor, and Department of Public Instruction.
- G.S. 93B-2 requires occupational and state agency licensing boards to include as part of their annual reports to the General Assembly the number of applicants with a criminal record and, of that number, the number granted a license, denied a license for any reason, and denied a license because of a conviction.
- G.S. 93B-8.1(b) provides that unless federal law provides otherwise, a board may deny an applicant on the basis of a criminal conviction only if the board finds that the applicant's criminal conviction history is "directly related" to the licensed occupation or the conviction is for a crime that is violent or sexual in nature. Notwithstanding any other provision of law, a board may not automatically deny licensure based on an applicant's criminal history and may not deny an applicant a license based on a determination that a conviction is for a crime of moral turpitude.
- G.S. 93B-8.1(b1) provides that before a board may deny a license based on a criminal conviction, the board must specifically consider several listed factors. The list, enacted in 2013, is expanded to require consideration of the completion of or active participation in rehabilitative drug or alcohol treatment and a certificate of relief granted under G.S. 15A-173.2.
- G.S. 93B-8.1(b2) provides that if a board denies an applicant a license, the board must make written findings within 60 days of the denial specifying the factors deemed relevant by the board and explaining the reasons for the denial.
- G.S. 93B-8.1(b3) requires every board to include in its license application and on its public website whether it requires applicants to consent to a criminal record check, the factors it considers when making a license decision, and the appeals process if the board denies licensure because of a criminal conviction.
- G.S. 93B-8.1(b4) provides that if a board requires a criminal record check, the board must require the provider of the record check to provide the applicant with access to the record check or deliver a copy of the record to the applicant. If the applicant's record includes matters that may prevent the board from issuing a license to the applicant, the board must notify the applicant in writing and allow the applicant the opportunity to provide additional information to the board. An applicant has thirty days from being notified to correct any inaccuracy in the record check or submit additional information for the board's consideration.
- G.S. 93B-8.1(b5) provides that if a board denies a license application, the board's written order must specifically identify any criminal conviction that formed the basis for the denial and the rationale for the denial. The order also must refer to the process for

appealing the denial and the right of the applicant to reapply no more than two years after the most recent application.

- G.S. 93B-8.1(b6) gives a person with a criminal record the right to petition a board at any time, including before starting any mandatory education or training requirements, for a predetermination whether the person's record will likely disqualify the person from obtaining a license. If the board determines that an applicant would likely be denied licensure, the board must notify the person in writing of the reasons for its predetermination, that the person has the right complete any requirements for licensure and have the board consider the person's application, and that further evidence of rehabilitation will be considered.
- G.S. 93B-8.1(b8) provides that a predetermination that a petitioner is eligible for a license is binding if the petitioner applies for a license, the petitioner fulfills all other requirements, and the petitioner's criminal record was correct and has not changed.

The act also strengthens North Carolina's certificate of relief law, enacted in 2011. One effect of a certificate of relief has been that it converts mandatory penalties, disabilities, or disadvantages based on a criminal conviction into discretionary disqualifications. As part of its discretionary decision, an administrative agency, government official, or court in a civil proceeding has been permitted to consider a certificate of relief favorably in determining whether to impose penalties, disabilities, and disadvantages, including licensure denials. Amended G.S. 15A-173.2(d) now mandates that agencies, officials, and courts consider a certificate of relief favorably in determining whether a conviction should result in disqualification in licensing and other matters.

For further discussion, see John Rubin, [Occupational Licensing Reforms and Criminal Convictions](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Oct. 15, 2019).

14. **[S.L. 2019-109 \(S 191\): Temporary intergovernmental law enforcement agreements.](#)** The title of the act expresses its purpose: "To authorize a city with a population of more than five hundred thousand people which holds a national convention [that is, the 2020 Republican National Convention in Charlotte] to contract with out-of-state law enforcement agencies to provide law enforcement and security for the national convention." New G.S. 160A-288.3 implements this purpose, which applies to intergovernmental law enforcement agreements entered into on or after January 1, 2020, and expires October 1, 2020.
15. **[S.L. 2019-115 \(H 257\): Using face mask while operating motorcycle.](#)** Effective for offenses committed on or after December 1, 2019, new G.S. 14-12.11(b) creates an exception to G.S. 14-12.7 and 14-12.8, which prohibit wearing a mask on public ways and public property unless an exception applies (such as the wearing of traditional holiday costumes in season). The new subsection allows a person to wear a mask to protect the person's head or face while operating a motorcycle. The person must remove the mask during a traffic stop,

including a checkpoint or roadblock under G.S. 20-16.3A, or when approached by a law enforcement officer.

**16. [S.L. 2019-116](#) (H 224): Increased punishment for assault with firearm on law enforcement officer.** Effective for offenses committed on or after December 1, 2019, amended G.S. 14-34.5(a) makes it a Class D instead of Class E felony to assault with a firearm a law enforcement, probation, or parole officer while the officer is in the performance of his or her duties. ([S.L. 2019-228](#) (H 283), discussed below, makes the same change and increases the punishment for assaults on other personnel.)

**17. [S.L. 2019-130](#) (H 629): Mutual aid agreements with out-of-state-law enforcement agencies.** Effective July 19, 2019, amended G.S. 160A-288 authorizes mutual aid agreements with out-of-state law enforcement agencies if the law of the other state allows for mutual aid with out-of-state law enforcement officers.

**18. [S.L. 2019-117](#) (S 594): False liens.** Effective for offenses committed on or after December 1, 2019, revised G.S. 14-118.6 makes the filing of a false lien against the real or personal property of an owner or beneficial interest holder a Class I felony. Previously, the statute applied to more limited conduct—namely, the filing of a false lien against a public officer, a public employee, or an immediate family member of a public officer or employee on account of the performance of the officer’s or employee’s official duties.

**19. [S.L. 2019-134](#) (H 138): Damaging fire alarms and related equipment.** Effective for offenses committed on or after December 1, 2019, new G.S. 14-286(b) makes it a Class H felony for a person to

1. willfully
2. interfere with, damage, deface, molest, or injure
3. any part or portion of a fire alarm, fire detection, smoke detection, or fire extinguishing system
4. in a prison or local confinement facility.

Other violations of G.S. 14-286 remain a Class 2 misdemeanor.

**20. [S.L. 2019-150](#) (H 323): Court costs for local lab fees.** Effective for costs assessed on or after July 1, 2019, the act amends G.S. 7A-304(8) (DNA analysis), (9b) (digital forensics), and (12) (expert testimony) to provide for court costs for the services of a crime lab when the local government operates the lab or pays for the lab services. Previously, the subsections stated that they applied to crime labs operated by a local government. The other conditions for imposition of these expenses remain the same.

**21. [S.L. 2019-155](#) (H 546): Counterfeit supplemental restraint systems and nonfunctional airbags.** Effective for offenses committed on or after October 1, 2019, the act amends G.S. 20-71.4(a) to make it a Class 2 misdemeanor to transfer a motor vehicle when the transferor knows that a counterfeit supplemental restraint system or nonfunctional airbag,



as defined in revised G.S. 20-4.01, has been installed in the vehicle. The new provision also states that it applies when the vehicle has no airbag; the provision does not appear to make an exception for transferring older cars with notice to the transferee. It also states that if a franchised motor vehicle dealer has no actual knowledge that a counterfeit supplemental restraint system component or nonfunctional air bag has been installed in the vehicle, knowledge of others is not imputed to the dealer, who is deemed not to have committed an unlawful act. The act amends G.S. 20-136.2 to broaden the prohibitions in that statute. Effective October 1, 2019, it is a Class 1 misdemeanor and an unfair and deceptive trade practice under G.S. 75-1.1 to knowingly import, manufacture, sell, offer for sale, distribute, install, or reinstall a counterfeit supplemental restraint system or nonfunctional airbag or other component that causes a motor vehicle to fail to meet federal motor vehicle safety standards as provided in 49 C.F.R. 571.208. It is a Class H felony if a violation contributes to a person's physical injury or death. The statute includes an exception for franchised motor vehicle dealers without actual knowledge.

**22. [S.L. 2019-157 \(S 29\)](#): Move over law and flashing amber lights.** Effective for offenses committed on or after December 1, 2019, amended G.S. 20-157(i) makes it a Class F instead of a Class I felony for a person to violate the move over law when the person causes serious injury or death to certain personnel, including law enforcement officers and other emergency response personnel. Amended G.S. 20-130.2 prohibits any vehicle from operating a flashing or strobe amber light while in motion on a street or highway unless a specific exception applies, such as when a vehicle exceeds a width of 102 inches. A violation is an infraction under G.S. 20-176.

**23. [S.L. 2019-158 \(H 198\)](#): Human trafficking.** The act makes the following changes related to human trafficking. Effective for offenses committed on or after December 1, 2019, revised G.S. 14-43.13 makes it the crime of sexual servitude to subject, maintain, or obtain another for the purposes of sexual servitude (was, subject or maintain another in sexual servitude).

Effective for offenses committed on or after December 1, 2019, new G.S. 14-208.1 makes a person guilty of promoting travel for unlawful sexual conduct, a Class G felony, if the person

1. sells or offers to sell
2. travel services as defined in G.S. 14-208.1(a), which includes transportation, lodging, package tours, vouchers for future travel, or accommodations for a fee or other consideration,
3. that
  - a. the person knows to include travel for the purpose of committing any of the listed offenses, or
  - b. for the purpose of engaging in conduct that would constitute any of the listed offenses if occurring within North Carolina.



The listed offenses include offenses under G.S. Chapter 14, Article 7B (rape, sexual offense, sexual battery and other offenses); offenses involving sexual exploitation of a minor; offenses involving indecent liberties with a minor; and prostitution offenses.

Effective for causes of action arising on or after July 1, 2019, new G.S. 14-43.18 provides that a person who is a victim may bring a civil action for the relief described in the new statute against a person who violates G.S. Chapter 14, Art. 10A, Human Trafficking, or against a person who knowingly benefits financially or by receiving anything of value from participation in a venture which that person knew or should have known violates Art. 10A. The new statute details the available relief and includes a statute of limitations. A civil action under the new statute is stayed during the pendency of any criminal action, including investigation and prosecution, arising out of the same occurrence in which the plaintiff is a victim.

Effective for petitions filed on or after December 1, 2019, the act expands expunction relief in three ways. (1) Revised G.S. 15A-145.6(b) omits the requirement to obtain an expunction of a prostitution conviction that the offense was the result of having been a trafficking victim. (2) New G.S. 15A-145.9 authorizes an expunction of a conviction of a nonviolent offense as defined in the statute if the court finds that the person was coerced or deceived into committing the offense as a direct result of having been a trafficking victim. The new statute details the procedures, conditions, and effects of the new expunction. Revised G.S. 15A-151.5(a) gives prosecutors access to the new type of expunction to calculate prior record level if the person is convicted of a subsequent criminal offense. (3) Revised G.S. 7B-3200 removes the requirements for expunction of a juvenile adjudication of an 18-month waiting period after release from juvenile court jurisdiction and no subsequent adjudication or conviction if the person's participation in the offense was a result of having been a victim of human trafficking.

Effective for motions filed on or after December 1, 2019, revised G.S. 15A-1415(b)(10) expands the grounds for a motion for appropriate relief to include convictions of nonviolent offenses as defined in the new expunction statute, G.S. 15A-145.9. The act deletes the reference to first prostitution offenses, which fall within the definition of nonviolent offense. Revised G.S. 15A-1416.1(a) expands the grounds for vacating a conviction to include nonviolent offenses as set out in G.S. 15A-1415(b)(10). The court may grant the motion to vacate if the defendant demonstrates by the preponderance of the evidence that the violation was a direct result of the defendant having been a victim of human trafficking or sexual servitude and the offense would not have been committed but for the defendant having been a victim of human trafficking or sexual servitude. New G.S. 15A-1416.1(d) provides that a previous or subsequent conviction does not affect eligibility for relief.

- 24. [S.L. 2019-159 \(H 325\)](#): Decriminalization of drug testing equipment to detect contaminants.** Effective July 22, 2019, the act adds G.S. 90-113.22(d) and 90-113.22A(c) providing that it is not unlawful for a person who introduces or intends to introduce a

controlled substance into his or her body to knowingly use or possess with intent to use equipment to identify or analyze the strength, effectiveness, or purity of the controlled substance. The new subsections also allow testing by governmental and nongovernmental organizations that promote scientifically proven ways of mitigating health risks to distribute such testing equipment to a person who intends to introduce a controlled substance into his or her body. For further discussion, see Jeff Welty, [Drug Testing Equipment Isn't Drug Paraphernalia Anymore](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Jul. 29, 2019). The act also repeals G.S. 90-101(a1), which required annual registration by prescribers of buprenorphine, used to treat opiate dependence.

25. [S.L. 2019-163](#) (S 154): **Sports and horse race wagering on tribal lands.** Effective July 26, 2019, amended G.S. 14-292.2(b) allows sports and horse race wagering, as defined in amended G.S. 14-292.2(e), in addition to other forms of gambling allowed on tribal lands.
26. [S.L. 2019-169](#) (S 523): **Venue for violations of tax laws.** Effective for offenses committed on or after December 1, 2018, amended G.S. 105-236(b) deletes the provision that a criminal violation of a tax law is in the county where the charged offense occurred. With this change, a violation of a tax law is considered an act committed in part at the office of the Secretary of Revenue in Raleigh.
27. [S.L. 2019-170](#) (S 604): **Unauthorized practice of veterinary medicine.** Effective when the Veterinary Medical Board adopts implementing rules under the act, G.S. 90-187.12 does not make each act of unlawful veterinary medicine practice a distinct and separate offense.
28. [S.L. 2019-171](#) (H 108): **Inmate medical transfers and payments.** Effective for prisoners transferred on or after October 1, 2019, the act amends G.S. 162-39(d), which has empowered judges to order transfer of a prisoner in need of medical or mental health treatment from a county jail to a state prison. The amended subsection limits the period of an initial transfer order to a maximum of 30 days. Before the end of this initial period, the Department of Public Safety, Division of Adult Correction and Juvenile Justice (DACJJ), must assess the prisoner's treatment and venue needs. To extend the order beyond the initial period, the sheriff must present the assessment and other relevant information to a judge, who may then decide to extend the transfer. If a judge renews the transfer, he or she must set a date certain for further review. If the judge does not renew the order, the prison must release the prisoner in accordance with the court order and with instructions of the attending medical or mental health professional. The act also amends G.S. 162-39(c) to specify additional health care and related costs for which the county is responsible while the prisoner is in DACJJ custody. Amended subsection (f) provides that if the county does not take custody of a prisoner after receiving notice from DACJJ that the prisoner may be returned, the county is responsible for an additional \$20 per day unless the transfer order is extended or extenuating circumstances exist. Subsection (e) states that DACJJ may not refuse to accept a prisoner because of the county's failure to pay for services. New G.S. 148-19.3 provides that health care charges that are the responsibility of the transferring county

are to be submitted by the health care provider to the Inmate Medical Costs Management Plan through the North Carolina Sheriffs' Association, not to DACJJ. For further discussion, see Jamie Markham, [New Rules for Safekeepers](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Oct. 31, 2019).

- 29. [S.L. 2019-174 \(H 675\)](#): Falsely claiming to be licensed as a general contractor.** Effective for offenses committed on or after October 1, 2019, the act expands G.S. 87-13 to make it a Class 2 misdemeanor to falsely claim or suggest in connection with any business activities regulated by the State Licensing Board for General Contractors that a person, firm, or corporation is so licensed.
- 30. [S.L. 2019-182 \(S 290\)](#): Sale and consumption of alcohol at bingo games.** Effective for offenses committed on or after September 1, 2019, the act repeals G.S. 18B-308, which had made it unlawful to sell or consume alcohol at bingo games.
- 31. [S.L. 2019-183 \(S 9\)](#): Female genital mutilation of a child.** Effective for offenses committed on or after October 1, 2019, the act enacts G.S. 14-28.1 creating the following crimes related to female genital mutilation. It is a Class C felony for a person to:
1. knowingly and unlawfully
  2. circumcise, excise, or infibulate
  3. the whole or part of the labia majora, labia minor, or clitoris
  4. of a child under age 18.

It is a Class C felony for:

1. a parent or person providing care or supervision
2. of a child under age 18
3. to consent to the above acts.

It is a Class C felony for:

1. a parent or person providing care or supervision
2. of a child under age 18
3. to knowingly
4. remove or permit the removal of the child from North Carolina
5. for the above acts.

New G.S. 14-28.1(e) creates exceptions for surgical operations for medical purposes. G.S. 14-28.1(f) provides that it is not a defense that circumcision, excision, or infibulation is required as a matter of custom or ritual or that the person on whom the acts were performed consented to the acts.

- 32. [S.L. 2019-186 \(S 413\)](#), as amended by [S.L. 2019-243 \(H 470\)](#): Raise the Age modifications.** The following summary, prepared by School of Government faculty member Jacqueline Greene, discusses the changes made by the act, which is effective for offenses committed

on or after December 1, 2019. For further discussion, see Jacquelyn Greene, [Raise the Age FAQs](#), ON THE CIVIL SIDE, UNC SCH. OF GOV'T BLOG (Oct. 22, 2019), and [Raise the Age: Modifications and Training Opportunities](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Aug. 27, 2019).

- Amends the definition of a delinquent juvenile to exclude all violations of the motor vehicle laws under G.S. Chapter 20 from juvenile jurisdiction for juveniles who are 16- and 17-years-old. G.S. 7B-1501(7)b., 143B-805(6)b.
- Excludes violations of the motor vehicle laws punishable as misdemeanors or infractions, other than those involving impaired driving, from the bar on future juvenile court jurisdiction following a conviction in district or superior court. G.S. 7B-1604(b).
- Limits the gang assessment required as part of the juvenile intake process to juveniles who are 12 years of age or older. G.S. 7B-1702.
- Requires that any individual age 21 or older who is taken into custody and is detained for an offense committed when the person would have been under juvenile jurisdiction be detained in the county jail where the charges arose. G.S. 7B-1901(d).
- Allows an individual between the ages of 18 and 21 who (1) is no longer age-eligible for juvenile jurisdiction, (2) has been taken into custody for an offense committed when the person would have been under juvenile jurisdiction, and (3) is detained, to be detained in the county jail where the charges arose. G.S. 7B-1903(e).
- Requires that any juvenile detention facility operated by a sheriff or any unit of government meet the standards and rules adopted by the Department of Public Safety and receive approval from the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice (DACJJ) for operation as a juvenile detention facility. G.S. 7B-1905(b).
- Requires ongoing secure custody hearings for juveniles alleged to have committed offenses that would be Class A through Class G felony offenses at age 16 or 17 every thirty days. Hearings may be waived only with the consent of the juvenile through his or her attorney. Hearings can be required every ten days on request of the juvenile and a judicial finding of good cause. G.S. 7B-1906.
- Extends the timeframe in which a probable cause hearing must be held, for juveniles alleged to have committed Class A through Class G felony offenses at ages 16 and 17, to within ninety days of the juvenile's first appearance. The hearing may be continued by the court for good cause. G.S. 7B-2200.5(c).
- Requires the court to remand a case—(1) in which the offense was alleged to have been committed by the juvenile at age 16 or 17 and (2) that was transferred to superior court—back to district court on joint motion of the prosecutor and the juvenile's attorney. Superior court records must be expunged on remand. G.S. 7B-2200.5(d).
- Requires personnel of the Juvenile Justice Section of the DACJJ, or personnel approved by the Juvenile Justice Section, to transport youth who are being held in juvenile detention following transfer of their case to superior court between detention, court, and any holdover facility (if used). G.S. 7B-2204.

- Requires any youth being held in juvenile detention following transfer of his or her case to superior court to be transported by the Juvenile Justice Section of DACJJ to the sheriff from the county in which the charges arose for pretrial confinement in the local jail when the juvenile turns 18. G.S. 7B-2204(c).
- Allows for the detention of youth in a juvenile detention facility approved by DACJJ and operated by a sheriff or unit of government following conviction in a case transferred to superior court pending transfer to the DACJJ. G.S. 7B-2204(d).
- Requires the judicial finding that the offense for which the juvenile was adjudicated was committed as part of criminal gang activity be found beyond a reasonable doubt in order to increase the juvenile's disposition level by one level. G.S. 7B-2508(g1).
- Creates a new expunction statute for cases that are transferred to superior court and then remanded back to district court on joint motion of the prosecutor and juvenile defense attorney. The court must order expunction on remand. Expunction must include any DNA records and samples associated with the remanded charges as well as clerk notification to various state and local agencies. G.S. 15A-145.8. [This provision was amended by [S.L. 2019-243](#) (H 470) to require expunction of DNA records when charges are remanded for juvenile adjudication; provision of a certified copy of an expunction order to the defendant and the defendant's attorney; and deletion of public records but retention, as confidential records, records of the juvenile adjudication. As revised, the act applies to offenses committed and expunctions ordered on or after December 1, 2019.]

**33. [S.L. 2019-188](#) (H 724): Misleading telephone identification methods.** Effective December 1, 2019, the act revises G.S. 75-101, the definitions section governing telephone solicitations, to cover text as well as voice communications. Revised G.S. 75-102(i) prohibits telephone solicitors from causing misleading information to be transmitted to users of caller identification technologies or otherwise block or misrepresent the origin of the telephone solicitation. It is not a violation for the solicitor to give the name and number of the entity the solicitation is being made for rather than the name and number of the telephone solicitor. G.S. 75-105 continues to provide for civil enforcement by the Attorney General and individuals.

**34. [S.L. 2019-191](#) (H 228): Sexual acts during medical treatment, other medical practice crimes, and evidentiary privileges.** Effective for offenses committed on or after December 1, 2019, new G.S. 14-27.33A creates the crime of sexual contact or penetration, as defined in the statute, under the pretext of medical treatment or while the patient is incapacitated. The statute provides that a person is guilty of a Class C felony unless some other provision of law provides greater punishment; it also states that the statute does not prohibit a charge, conviction, or punishment of any other violation of law committed by that person while violating the statute.

Effective for offenses committed on or after October 1, 2019, the act amends several medicine-related licensing statutes (G.S. 90-12.1A through 90-12.4B) to make violations punishable by a fine up to \$500 (was, \$25 to \$50).

Effective October 1, 2019, amended G.S. 8-53 privileges information obtained by a person authorized to practice under G.S. Ch. 90, Art. 1 (was, authorized to practice physic or surgery) when attending a patient in a professional character and when necessary to enable the person to prescribe for the patient as a physician or do any act for the patient as a surgeon.

- 35. [S.L. 2019-193 \(H 760\): Loss prevention workers; jurisdiction and venue for false pretenses prosecutions.](#)** Effective October 1, 2019, the act amends G.S. 74C-3(b)(14) to exempt from that chapter, which regulates private protective services, employees whose primary duty involves loss prevention or who conduct investigations related to the location, disposition, or recovery of lost or stolen property from that business. Effective for offenses committed on or after December 1, 2019, amended G.S. 14-100 provides that the State is not required to establish that all of the acts constituting the offense of obtaining property by false pretenses occurred in North Carolina or within a single city, county, or local jurisdiction of North Carolina; and it is no defense that not all of the acts occurred within North Carolina or a single city, county, or local jurisdiction.
- 36. [S.L. 2019-194 \(H 391\): Transportation network company \(TNC\) drivers.](#)** Entitled the “Passenger Protection Act,” the act makes the following changes to TNC laws regulating transportation enterprises (such as Uber and Lyft). Effective October 1, 2019, revised G.S. 20-280.5(c) requires TNCs to keep a record of each driver’s address at the time the driver’s relationship with the TNC ended. Effective July 1, 2020, new G.S. 20-280.5(d) requires a TNC driver to display the license plate number of the driver’s vehicle that is visible from the front of the vehicle; and new G.S. 20-280.5(e) and (f) require a TNC driver to display consistent and distinctive signage or emblems or an alternative technological identifier while active on the TNC digital platform or providing any TNC service. Effective for offenses committed on or after December 1, 2019, new G.S. 14-401.26 make it an infraction, punishable by a fine of \$250, for a TNC driver to fail to display a front license plate as required by new G.S. 20-280.5(d) (not effective until July 1, 2020); new G.S. 14-401.27 makes it a Class 2 misdemeanor for a person to impersonate a TNC driver and makes it a Class H felony to do so during the commission of a separate felony; and new G.S. 14-33(c)(9) makes it a Class A1 misdemeanor to assault a TNC driver providing a TNC service.
- 37. [S.L. 2019-198 \(S 584\): Legislative review of regulatory crimes.](#)** Effective for rules adopted on or after January 1, 2020, any rule adopted or amended pursuant to G.S. Chapter 150B, Art. 2A, that creates a new criminal offense or otherwise subjects a person to criminal penalties is subject to G.S. 150B-21.3(b1), which contains procedures for legislative review of agency rules. This provision applies regardless whether the rule received written objections from ten or more people pursuant to G.S. 150B-21.3(b2). The act extends to



November 1, 2019, the time for state agencies, boards, and commissions that have the power to create crimes in the North Carolina Administrative Code to submit a list of such crimes to the Joint Legislative Administrative Procedure Oversight Committee. The act grants a similar extension to submit a list of ordinance violations subject to criminal punishment under G.S. 14-4(a) and makes the requirement applicable to counties with a population of 20,000 or more (was, counties), cities or towns with a population of 1,000 or more (was, cities or towns), and metropolitan sewer districts (no change). If a county, city, or town misses the extended deadline, any ordinance adopted on or after January 1, 2020, and before January 1, 2022, may not be subject to a criminal penalty under G.S. 14-4; a violation may still be subject to civil penalties. The act directs the General Statutes Commission to study these reports and make recommendations regarding whether any of the listed conduct should have criminal penalties provided by a generally applicable state law. The Commission must submit its report to the 2020 General Assembly and to the Joint Oversight Committee on General Government by May 1, 2020.

**38. [S.L. 2019-203 \(H 99\)](#): Alcohol law enforcement.** Effective October 1, 2019, the Alcohol Law Enforcement (ALE) Branch of the State Bureau of Investigation is relocated as a division of the Department of Public Safety. The act repeals G.S. 143B-928 and modifies G.S. 18B-550 to implement the organizational change. Revised G.S. 18B-500 also specifies the jurisdiction of ALE agents. The statute has provided that ALE agents' primary responsibility is to enforce Alcoholic Beverage Control (ABC), lottery, and youth tobacco laws, but they also have authority to take action for any criminal offense. Amended subsection (b) and new subsection (b1) specify that ALE agents have authority over criminal offenses in certain circumstances, such as offenses on premises or when related to locations holding a permit from the ABC Commission or Education Lottery Commission; offenses occurring in the agents' presence; and crimes of violence or breaches of the peace. New subsection (b2) states that ALE agents' primary responsibility remains enforcement of ABC laws under Ch. 18B, lottery laws under Ch. 18C, youth tobacco laws under G.S. 14-313, and lottery, gaming, bingo, and raffle laws under Parts 1 and 2 of Ch. 14, Art. 37.

**39. [S.L. 2019-204 \(H 597\)](#): Wildlife laws.** The act makes various changes to the state's wildlife laws, effective various dates, including amendments to several statutes governing licenses to hunt, fish, and trap. Effective for offenses committed on or after December 1, 2019, the act revises G.S. 14-417.2 to require that transport containers for crocodilians be designed to be escape-proof and locked (was, escape-proof only); and revises G.S. 14-419 to modify the steps a law-enforcement officer or animal control officer must take in investigating possible violations of Article 55, Regulation of Certain Reptiles, of G.S. Ch. 14. Under the latter statute, as amended, an officer may kill a reptile, without initially notifying or consulting with other authorities, if it has escaped or the officer has probable cause that it is being possessed in violation of Article 55 and poses an immediate risk to officer or public safety.



**40. [S.L. 2019-216 \(S 682\)](#), as amended by [S.L. 2019-243 \(H 470\)](#): **Victims’ rights.** The act adds and amends several victims’ rights provisions to implement the 2018 constitutional amendment on victims’ rights. The provisions in adult criminal cases and juvenile delinquency cases are summarized separately below.**

Effective for offenses committed on or after August 31, 2019, the act makes the following changes for adult criminal cases:

- G.S. Ch. 15A, Art. 45, Fair Treatment for Certain Victims and Witnesses, has described a more limited set of responsibilities of law-enforcement agencies, prosecutors, and others with respect to victims in cases not subject to G.S. Ch. 15A, Art. 46, the Crime Victims’ Rights Act. The act revises the definition of family member in G.S. 15A-824 to include a spouse, child, parent, legal custodian, sibling, or grandparent of the victim (was, spouse, child, parent or legal guardian, or closest living relative). The act also revises the definition of crime in G.S. 15A-824 to include acts by a juvenile covered in new G.S. Ch. 7B, Art. 20A, Rights of Victims of Delinquent Acts, summarized in detail after this summary of adult criminal cases.
- G.S. 8-53.12 provides a privilege for information acquired by agents of rape crisis centers and domestic violence programs in providing services to a victim of a sexual assault or domestic violence. The revised statute directs agents, centers, and programs to make every effort to inform the victim of any request for such information and provide the victim with a copy of the request if the request was in writing. The revised statute also provides that in any court proceeding to compel disclosure of the information, the judge must inquire whether the victim is present and wishes to be heard and, if so, must grant the victim an opportunity to be reasonably heard, including in the victim’s discretion through an oral statement, written statement, or audio-video statement.
- The act’s remaining provisions about adult criminal cases make the following changes to G.S. Ch. 15A, Art. 46, the Crime Victims’ Rights Act.
- The act makes several changes to the definitions section, G.S. 15A-830, and thus the coverage of the article.
  - New subdivision (a)(2a) of G.S. 15A-830 defines “court proceeding” as “a critical stage of the post-arrest process heard by a judge in open court involving a plea that disposes of the case or the conviction, sentencing, or release of the accused.” The subdivision states that the term does not include preliminary proceedings described in Ch. 15A, Art. 29, First Appearance Before District Court Judge.
  - New subdivision (a)(3a) defines a “family member,” which is a person who may assert the victim’s rights if the victim is a minor or incapacitated, as a spouse, child, parent, guardian, legal custodian, sibling, or grandparent of the victim. The subdivision states that the term does not include the accused. New G.S. 15A-

830(d) provides that the district attorney may determine that an individual would not act in the victim's best interest and may not exercise the victim's rights and gives the individual the right to petition the court for review of that determination.

- New subdivisions (a)(3b) and (a)(6a) define “felony property crime” and “offense against the person,” which constitute the offenses that give rise to the victims’ rights in the article. Revised subdivision (a)(7) defines “victim” as a person against whom there is probable cause to believe that such an offense has been committed. For a discussion of covered crimes, see Jamie Markham, [Crimes Covered under the New Victims’ Rights Law](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Sep. 27, 2019).
- New G.S. 15A-830.5 states the general rights of a victim covered by the article, including the right to timely notices of court proceedings (as defined in the article), the right to receive notice of release of the accused, and the right to confer with the district attorney’s office.
- G.S. 15A-831 details the responsibilities of law enforcement agencies. It is revised to require the arresting agency to inform the investigating agency within 72 hours after arrest of a person believed to have committed a crime covered by the article. Following receipt of this information, the investigating agency has 72 hours to notify the victim of the arrest. The investigating agency continues to have the obligation of providing the victim with a form, now created by the Conference of District Attorneys, that asks whether the victim wants to receive further notice from the investigating agency during the pretrial process. The revised statute requires the victim to return the form to the investigating agency within 10 business days. The investigating agency must share the form with the district attorney.
- G.S. 15A-832 details the responsibilities of district attorneys. The statute is revised to delete the provision requiring the court to make every effort to permit the fullest attendance by the victim when the victim is to be called as a witness. It adds a requirement that the district attorney make every effort to ensure that a victim’s personal information is not disclosed unless required by law.
- G.S. 15A-832.1 details the responsibilities of judicial officials.
  - Under the revised statute, a judicial official who issues a pleading for a misdemeanor offense, when based on testimony from a complaining witness and not a law enforcement officer, must: record identifying information about the victim unless the victim declines to provide the information and deliver the information to the clerk of superior court. Previously, the statute applied to arrest warrants and for specific misdemeanor offenses only.
  - The judge in any court proceeding subject to the article must inquire whether the victim is present and wishes to be heard. If so, the judge must grant the victim the opportunity to be heard and, in the victim’s discretion, allow the

victim to be heard through an oral statement, written statement, or audio-video statement. The court must make every effort to secure a waiting area during court proceedings that does not place the victim in close proximity to the defendant or the defendant's family.

- New G.S. 15A-834.5 details procedures for victims to enforce their rights under the article.
  - For purposes of utilizing the procedures in the new statute, the term “victim” includes others acting on the victim’s behalf, including the victim’s attorney, the prosecutor at the victim’s request, and in certain circumstances a parent, guardian, legal custodian, or family member as defined in G.S. 15A-830.
  - A victim may allege a violation of rights provided in the article by filing a motion with the clerk of superior court in the pending criminal proceeding. If the motion alleges a violation by the district attorney or a law enforcement agency, the victim must first file a written complaint with and afford that office or agency an opportunity to resolve the issue. A motion alleging a violation by the district attorney or law enforcement agency must include a copy of the written complaint.
  - A victim has the right to consult with an attorney about an alleged violation but does not have the right to counsel provided by the State.
  - The clerk of superior court must provide victims with the form motion created by the Administrative Office of the Courts, [AOC-CR-182](#) (Aug., 31, 2019), to enable them to allege violations of their rights. There is no filing fee for the motion.
  - The statute states that a copy of a filed motion must be provided to the prosecutor, the elected District attorney, and the judge in the criminal proceeding. If the allegation is that a law enforcement agency failed to comply with a victim’s rights, a copy of the motion must be provided to the head of the law enforcement agency. The AOC form provides that the clerk of superior court is to provide these copies to the indicated people. The statute and the AOC form do not require that a copy of the motion be provided to the defendant or the defendant’s attorney.
  - The judge must review the motion and, following review, dispose of the motion or set it for hearing. The statute states that “review” may include conferring with the victim, the prosecutor, the elected District Attorney, and, if the subject of the motion, the head of the concerned law enforcement agency. The statute and AOC form do not require that the defendant or the defendant’s attorney be given notice of the review and any hearing.
  - The judge involved in the criminal proceeding may, on the judge’s own motion, recuse himself or herself if justice requires it. A judge appointed by the AOC in the event of recusal must dispose of the motion or set it for hearing. (This recusal provision is part of revised G.S. 15A-832.1, Responsibilities of judicial officials.)

- If a judge fails to review the motion and dispose of it or set it for hearing in a timely manner, the victim may petition the North Carolina Court of Appeals for a writ of mandamus.
- The statute states that failure to provide a right or service under the article does not provide grounds for relief to a defendant, an inmate, any other accused person or, except as provided by Art. 1, Sec. 37 (Rights of victims of crime) of the North Carolina Constitution, a victim or family member of a victim.
- G.S. 15A-835 details posttrial responsibilities. The revised statute states that a victim does not have a right to be heard on appeal but is permitted to be present at any open appellate hearing.
- G.S. 15A-836 details responsibilities of an agency with custody of a defendant after a final judgment and commitment. The revised statute states that in addition to other information, it must notify the victim of the procedure for alleging a failure of the custodian to notify the victim of the required information.
- G.S. 15A-840, which has limited the relief for violations, and G.S. 15A-841, which has indicated when a family member may assert the rights of a victim, are repealed. Similar provisions are incorporated into the new and revised statutes described above.
- For a further discussion of the provisions in adult criminal cases, see the following blog posts on North Carolina Criminal Law:
  - Shea Denning, [Victims' Rights Bill Sent to Governor](#) (Sep. 4, 2019)
  - Shea Denning, [When Victims' and Defendants' Rights Collide in Court, Who Wins?](#) (Sep. 11, 2019)
  - Jamie Markham, [Crimes Covered under the New Victims' Rights Law](#) (Sep. 27, 2019)
  - Jeff Welty, [Comparing the Role Victims Play in Criminal Court: Mexico vs. North Carolina](#) (Sep. 30, 2019)

The following summary, prepared by School of Government faculty member Jacqueline Greene, summarizes the victims' rights provisions in the act for juvenile delinquency proceedings, which are effective for delinquent acts committed on or after August 31, 2019:

- Adds a new Article 20A, "Rights of Victims of Delinquent Acts," to Chapter 7B of the General Statutes.
- Provides definitions for the meaning of "court proceeding," "family member," "felony property offense," "offense against the person," and "victim" for the purposes of the new Article. G.S. 7B-2051(a).
- Allows for a parent, guardian, or legal custodian, if not the accused person in the matter, to assert the rights of any victim who is a minor or who is legally incapacitated. G.S. 7B-2051(b).
- Allows a family member to assert the victim's rights if the victim is deceased. The guardian or legal custodian of a deceased minor has priority over a family member, and

the right to restitution under G.S. 15A-834 can only be exercised by the personal representative of the victim's estate. G.S. 7B-2051(b).

- Allows an individual entitled to exercise the victim's rights as the appropriate family member to designate any family member to act on the victim's behalf. G.S. 7B-2051(c).
- Provides that if an individual is determined by the district attorney's office to be someone who would not act in the best interests of the victim, that person is not entitled to assert the victim's rights. Any such determination can be reviewed by the court following a petition for review. G.S. 7B-2051(d).
- Establishes victim rights, including the right to: reasonable, accurate, and timely notice of court proceedings (on request); be present at court proceedings of the juvenile (on request); be reasonably heard at court proceedings involving the adjudication, disposition, or release of the juvenile; receive any ordered restitution in a reasonably timely manner; be given information about the offense, how the juvenile justice system works, the rights of victims, and the availability of victim services; receive information about the adjudication or disposition of the case (on request); receive notification of the escape or release of the juvenile (on request); and reasonably confer with the district attorney's office. G.S. 7B-2052.
- Establishes the following responsibilities of the office of the district attorney:
  - Provide the victim certain information within 72 hours of petition filing;
  - Provide the victim a form on which he or she can request to receive notice of court proceedings and information regarding case adjudication and disposition;
  - Make every effort to ensure that a victim's personal information is not disclosed unless otherwise required by law;
  - Offer the victim the opportunity to reasonably confer with an attorney in the district attorney's office to obtain the victim's views about, at least, dismissal, plea or negotiations, disposition, and any dispositional alternatives;
  - Provide and document reasonable, accurate, and timely notice to the victim of the date and time of scheduled court proceedings, as requested;
  - Whenever practical, provide a secure waiting area during court proceedings that does not place the victim in close proximity to the juvenile or the juvenile's family;
  - Prior to the dispositional hearing, notify the victim of the right to request to be notified in advance of the juvenile's scheduled release date if the juvenile is committed to a Youth Development Center (YDC) and of any escape of the juvenile if the juvenile is being held in secure custody or is committed to a YDC. Submit a form to the court at disposition regarding the victim's request for these further notices;
  - Following disposition, provide the victim with information on the adjudication and disposition of the juvenile as requested by the victim. This information is limited to: whether the juvenile was adjudicated, adjudicated offense

classification, available dispositions, any no contact orders as they relate to the victim, and any orders for restitution. G.S. 7B-2053.

- Adds the following responsibilities for judicial officials:
  - In any court proceeding subject to this article and in which the victim may be present, inquire as to whether the victim is present and wishes to be heard. If the victim wishes to be heard, grant an opportunity to be heard through an oral statement, submission of a written statement, or submission of an audio or video statement;
  - Provide the victim an opportunity to be heard regarding the victim's right to be present in the event that an entire hearing has been closed to the victim;
  - Review any motion alleging a violation of the victim's rights established by this Article;
  - Make every effort to provide a secure waiting area during court proceedings that does not place the victim in close proximity to the juvenile or the juvenile's family. G.S. 7B-2054.
- Creates the following responsibilities within the Division of Adult Correction and Juvenile Justice:
  - If a victim has requested to be notified of a juvenile's release from a YDC, notify the victim at least 45 days before releasing the juvenile to post-release supervision, including only the juvenile's initials, offense, date of commitment, projected release date, and any no-contact release conditions related to the victim;
  - Provide the victim an opportunity to be reasonably heard regarding release of the juvenile when determining whether the juvenile is ready for release and consider the victim's views. If the juvenile is determined to be ready for release, consider the victim's views during the post-release supervision planning conference process;
  - If a victim has requested to be notified of the juvenile's escape, notify the victim within 24 hours of any escape from a YDC or from secure custody. If public disclosure of the escape is required, make a reasonable effort to notify the victim before releasing information to the public. Notify the victim within 24 hours of the juvenile's return to custody, even if the juvenile is returned before notification of the escape is required;
  - Notify the victim of the procedure for alleging a failure of the Division to notify the victim of any requested notification of release or escape. G.S. 7B-2055.
- Prohibits examination by and release of confidential juvenile records to victims. Limits disclosure of information contained in a juvenile record to a victim to the information expressly allowed in this Article. G.S. 7B-2057.
- Establishes a judicial process for enforcement of victim rights. Any allegation involving failure of the district attorney to comply with the provisions of this article must begin by

filing a written complaint with the district attorney. The Administrative Office of the Courts must create a form to serve as a motion to enable a victim to allege a violation of the rights provided under this article. The motion must be filed with the clerk of the superior court in the same proceeding giving rise to the rights in question. Victims have a right to consult with counsel, although victims do not have a right to counsel provided by the State. The judge may dispose of the motion through conference or following a hearing. If the judge does not review and dispose of the motion, the victim may petition the Court of Appeals for a writ of mandamus;

- Provides that failure or inability to provide a right or service under this article may not be used as a ground for relief in a juvenile or other civil proceeding except as provided in Section 37 of Article I of the North Carolina Constitution (Rights of Victims of Crimes). G.S. 7B-2058.
- Makes conforming changes regarding existing release and escape notification provisions and confidentiality of juvenile records. G.S. 7B-2514(d), 7B-3000(b), 7B-3100(b), 7B-3102(e).
- Repeals G.S. 7B-2513(j), which previously provided a process for victim notification of release of certain juveniles from YDC commitments.
- Requires the Conference of District Attorneys and the Administrative Office of the Courts to develop and disseminate required forms by August 31, 2019.
- Requires the Administrative Office of the Courts, in consultation with the Conference of District Attorneys, to develop procedures to automate required court date notifications.
- Requirements for development of automated court date notifications are effective September 4, 2019.

**41. [S.L. 2019-217](#) (S 574): Study sports betting and establishment of gaming commission.**

Effective September 4, 2019, the act directs the North Carolina State Lottery Commission to study several matters related to gaming, including authorizing sports betting, on-site betting at horse steeplechases, and the creation of a commission to oversee gambling. The Commission must report its findings and any proposed legislation to the General Assembly by April 15, 2020.

**42. [S.L. 2019-221](#) (H 29): Testing of sexual assault kits.** The act, entitled “The Standing Up for Rape Victims (SURVIVOR) Act of 2019,” adds new G.S. 15A-266.5A establishing requirements for testing of sexual assault examination kits, effective September 18, 2019. (For CODIS hits, the act applies to hits received on or after that date.) The act appropriates \$3,000,000 each year of the 2019–21 biennium for the testing of sexual assault examination kits as required by the act. The State Crime Lab must report to the General Assembly by March 1, 2020, on the use of the funds.



New G.S. 15A-266.5A(b) defines three types of sexual assault examination kits:

- reported kits, meaning a kit from a person who has consented to collection of the kit and consented to participate in the criminal justice process by reporting the crime to law enforcement;
- unfounded kits, meaning where on completion of the investigation, law enforcement concluded based on clear and convincing evidence that a crime did not occur; and
- unreported kits, meaning a kit from a person who consented to collection of the kit but has not consented to participation in the criminal justice process.

For kits collected on or after July 1, 2019, new G.S. 15A-266.5A(c) requires the collecting agency to preserve the kit in accordance with State Crime Lab guidelines and notify the appropriate law enforcement agency within 24 hours of collection. That agency must take custody of the kit within seven days of receiving notice, and it must submit a reported kit to the State Crime Lab or other approved lab within 45 days and must submit an unreported kit to the Department of Public Safety (DPS) within 45 days for storage under G.S. 143B-601(13). (That statute authorizes storage and management of rape kits under the federal Violence Against Women Act and requires protections against release of the victim's name without the victim's consent.)

New G.S. 15A-266.5A(d) requires any law enforcement agency that possesses a kit completed before January 1, 2018, to take the following steps:

- establish a review team within three months of the effective date of the act;
- have the review team survey the agency's inventory of untested kits and conduct a case review to determine the kit's priority within six months of the effective date of the act; and
- submit a request for testing of kits determined to be a priority and continue the review process until all untested kits in its inventory eligible for testing have been submitted for testing.

Unreported kits are not subject to the above requirements and are to be sent to DPS for storage. Kits determined to be unfounded kits are also exempt from the requirements; however, if the law enforcement agency receives additional information or evidence of value, the agency must submit the kit for testing as soon as practicable. Kits not subject to either G.S. 15A-266.5A(c) or (d) also must be submitted for testing as soon as practicable. G.S. 15A-266.5A(g) states that lack of compliance with any of the testing requirements does not afford the accused with remedies such as exclusion of evidence or dismissal of the charges. The act also adds G.S. 15A-266.8(d) requiring a law enforcement agency that receives a CODIS hit on a submitted DNA sample to provide electronic notice to the State Crime Lab of any arrest or conviction in connection with a CODIS hit within 15 days.

- 43. [S.L. 2019-223 \(S 118\)](#): **Prison safety appropriations and prison report.** Effective July 1, 2019, the act appropriates approximately \$4.5 million to the Department of Public Safety (DPS), Division of Adult Correction and Juvenile Justice, for implementation of prison safety provisions, including additional stab resistant vests, security netting over prison fences to deter and intercept contraband, additional handheld metal detectors, and information technology security equipment upgrades. The act requires for the 2019–21 biennium that DPS report quarterly to the General Assembly on various initiatives, including modifications to policies on disciplinary actions against correctional officers, frequency of staff training, adequacy of staffing of prison facilities, and other matters.**
- 44. [S.L. 2019-225 \(S 458\)](#): **Use of third-party toxicology labs.** Effective September 18, 2019, the act authorizes the Department of Health and Human Services, the Department of Justice, local health departments as defined in G.S. 130A-2(5), and local law enforcement agencies to engage third-party toxicology laboratories, capable of providing clinical intelligence and data related to prescription and illicit drug usage trends and developments, for the purpose of providing data to guide the delivery of drug treatment and law enforcement resources.**
- 45. [S.L. 2019-227 \(H 211\)](#): **Helmet requirements.** Effective for offenses committed on or after October 1, 2019, the act amends G.S. 140.4(a)(2) to provide that the helmet requirements therein do not apply to the operator of or any passengers within an autocycle that has completely enclosed seating or is equipped with a roll bar or roll cage. Formerly the exception from helmet requirements applied only if the autocycle had completely enclosed seating. For a discussion of remote license renewals, digital license plates, and other changes made by the act, see Shea Denning, [What's New in Motor Vehicle World](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Nov. 14, 2019).**
- 46. [S.L. 2019-228 \(H 283\)](#): **Increased punishment for assaults on law enforcement, probation, and parole officers, firefighters, healthcare providers, and others.** Effective for offenses committed on or after December 1, 2019, amended G.S. 14-34.5(a) makes it a Class D instead of Class E felony to assault with a firearm a law enforcement, probation, or parole officer while the officer is in the performance of his or her duties. (This provision is identical to [S.L. 2019-116 \(H 224\)](#).) Effective the same date, amended G.S. 14-34.6 makes it a Class G instead of Class H felony to assault a person listed in that statute (emergency health care technicians and providers, medical responders, hospital personnel and licensed healthcare providers providing healthcare services, firefighters, and hospital security personnel) when the person is discharging his or her duties and the assault inflicts serious bodily injury or is with a deadly weapon other than a firearm. Amended G.S. 14-34.6 makes it a Class E instead of Class F felony to commit such an assault with a firearm. The amended statute revises the definition of hospital personnel and licensed healthcare providers to delete the requirement that they be providing healthcare services in a hospital and require that they be providing healthcare to a patient. The act also creates an additional death benefit for**

individuals murdered in the line of duty who are covered under G.S. 143-166.2 and 143-166.3.

- 47. [S.L. 2019-229 \(H 1001\): Funding for Raise the Age legislation.](#)** Effective July 1, 2019, the act adds several positions to implement the Raise the Age legislation, including sixteen assistant district attorney positions (the act provides that seven of the positions are to be used to address existing deficiencies in district attorney office workload), three district attorney legal assistant positions, seven district court judge positions, and one assistant juvenile defender position. The funding for the positions, allocation among districts, and start dates are as provided in the act. The act allocates approximately \$75 million to the Department of Public Safety for positions in the Division of Juvenile Justice, including at Division of Juvenile Justice facilities; transportation positions and vans; increased bed capacity at juvenile detention centers; positions at the C.A. Dillon Youth Development Center; school counselor positions for juveniles exiting secure custody; community-based and residential programs; Juvenile Crime Prevention Council programs; juvenile court counselors; and positions in the Court Services and Community Programs sections of the Division of Juvenile Justice.
- 48. [S.L. 2019-236 \(S 579\): Study of alternative organization and management structures for Division of Adult Correction and Juvenile Justice \(DACJJ\).](#)** Effective November 1, 2019, the act directs the Joint Legislative Program Evaluation Oversight Committee to include in the 2019–20 work plan of the Program Evaluation Division a study of alternative organization and management structures for DACJJ, including among other possibilities the creation of a separate Department of Correction consisting of the Division of Prisons and Post-Release Supervision and Parole Commission and a separate Department of Juvenile Justice and Delinquency Prevention consisting of the current Juvenile Justice Section of DACJJ, Teen Court, Youth Development Centers, Juvenile Court Services, and Juvenile Crime Prevention Councils. The Program Evaluation Division is directed to submit its findings by November 1, 2020.
- 49. [S.L. 2019-239 \(S 683\): Absentee ballot crimes.](#)** Effective for offenses committed on or after December 1, 2019, the act amends G.S. 163-237 to increase the punishment for existing absentee ballot crimes from a Class 2 to Class 1 misdemeanor and adds six new felony offenses.
- 50. [S.L. 2019-240 \(S 537\): Special police officers at State facilities; denial of social work certificate or license; criminal history record checks for child care institutions.](#)** As part of a larger act dealing with the Department of Health and Human Services (DHHS), the act amends G.S. 122C-183, effective November 6, 2019, to authorize the Secretary of DHHS to assign special police officers employed at a State facility to other State-operated facilities on a temporary basis. When so assigned, the special police officers have the same powers at the facility and in the county in which the facility is located as authorized for other officers at that facility. See G.S. 122C-421, 122C-430, 122C-430.10, 122C-430.30.

Effective January 1, 2021, amended G.S. 90B-11 authorizes the North Carolina Social Work Certification and Licensure Board to deny, suspend, or revoke an application, certificate or license based on a conviction involving moral turpitude, misrepresentation or fraud in dealing with the public, conduct otherwise relevant to fitness to practice social work, or any misdemeanor reflecting inability to practice social work (was, misdemeanor under G.S. Ch. 90B). This provision may conflict with [S.L. 2019-91](#) (H 770), discussed above, which authorizes denial of an occupational license on the basis of a criminal conviction only if the conviction is “directly related” to the licensed occupation and which prohibits the denial of a license based on a determination that a conviction is for a crime of moral turpitude.

Effective November 6, 2019, and applicable to employees, volunteers, and applicants on or after that date, new G.S. 108A-133 requires a criminal history record check of all current employees and volunteers, applicants for employment, and individuals wishing to volunteer at a child care institution as defined by Title IV-E of the Social Security Act. An offer of employment or acceptance as a volunteer is conditioned on consent to a state and national criminal history check. If the record check reveals one or more convictions of a “relevant offense,” the Criminal Records Check Unit of DHHS considers several factors in determining whether to recommend that the person be hired or allowed to volunteer. New G.S. 108A-133(e) defines “relevant offense” as a misdemeanor or felony that bears on a person’s fitness to have responsibility for the safety and well-being of children; it provides that such offenses include offenses in numerous articles of the General Statutes. *But see* [S.L. 2019-91](#) (H 770), discussed above. New G.S. 143B-972 authorizes the Department of Public Safety to provide these record checks to DHHS. An applicant for employment or to be a volunteer who willfully furnishes false information on an employment application that is the basis for a criminal history record check is guilty of a Class A1 misdemeanor.

**51. [S.L. 2019-241](#) (S 433): Conversion of Class 3 misdemeanors at State Parks into infractions.**

Effective for offenses committed on or after December 1, 2019, the act revises G.S. 143B-135.16 to convert several Class 3 misdemeanors at State Parks into infractions, including such matters as using skateboards in prohibited areas, bathing animals, and parking motor vehicles outside of designated areas.

**52. [S.L. 2019-243](#) (H 470): Miscellaneous changes and corrections to laws governing administration of justice.** The act makes the following changes effective on the dates indicated:

- Effective for offenses committed on or after December 1, 2019, amended G.S. 14-209 defines perjury as knowingly and intentionally making a false statement under oath or affirmation (was, willfully and corruptly committing perjury on oath or affirmation) in the indicated proceedings. A violation remains a Class F felony.
- Effective November 6, 2019, the fee for recording or docketing a document is not chargeable when an attorney is designating a period of secured leave.

- Effective for any mandate of the appellate division received in the trial division on or after December 1, 2019, amended G.S. 15A-1452 distinguishes between judgments imposing an active sentence or monetary obligations without probation versus judgments imposing a suspended sentence. For the former, when an appeal is withdrawn or judgment is affirmed, the clerk of superior court follows the current procedure and enters an order directing compliance with the judgment. For the latter, the amended statute requires the clerk to notify the district attorney, who must calendar a review hearing. At the review hearing, the court must enter an order directing compliance with the judgment unless modified because any date or period of time specified in the original judgment has become impractical or impossible due to the pendency of the appeal. The court may not modify the judgment in other respects unless it complies with the procedure for modifying probation in G.S. 15A-1344. The defendant is entitled to be present and represented by counsel at the hearing.
- Effective November 6, 2019, amended G.S. 20-217(g2) gives a person 40 days (was, 20 days) to pay any fine or costs imposed for a violation of that statute (failing to stop for a school bus) before the clerk of court notifies the Division of Motor Vehicles to withhold renewal of motor vehicle registration.
- Effective November 6, 2019, amended G.S. 7B-2102(c) allows law enforcement agencies to enter the fingerprints of a juvenile, if the juvenile is adjudicated delinquent of an offense that would be a felony and was 10 years of age or older at the time of offense, into a local fingerprint database maintained by a secure crime laboratory facility.
- Effective for offenses committed and expunctions ordered on or after December 1, 2019, the act amends [S.L. 2019-186](#) (S 413), discussed above, regarding expunction of records when charges are remanded to district court for juvenile adjudication.
- G.S. 15A-952(g) has provided that good cause for a continuance includes instances when the defendant, a witness, or counsel has an obligation of service to the State of North Carolina. Effective December 1, 2019, the amended provision provides that a continuance request must be granted if to fulfill an obligation of service as a member of the General Assembly or service on the Rules Review Commission or any other board, commission, or authority as appointee of the Governor, Lieutenant Governor, or General Assembly.
- Effective for complaints or investigations pending or after November 6, 2019, amended G.S. 7A-377(a) prohibits the Judicial Standards Commission from investigating, on its own motion or on written complaint by a person, when the motion or complaint is based substantially on a legal ruling by a district or superior court judge and the legal ruling has not been reviewed and ruled on by the North Carolina Court of Appeals or Supreme Court. The amended statute also states: “The Commission is limited to reviewing judicial conduct, not matters of law.”

**53. [S.L. 2019-245 \(S 199\): Laws on sexual assaults and other matters.](#)** Effective for offenses committed on or after December 1, 2019 (unless otherwise noted below), the act enacts new crimes, modifies existing crimes, and makes other changes.

*Failure to report crimes against juveniles.* New G.S. 14-318.6 makes it a Class 1 misdemeanor for

1. any person
2. who is 18 years of age or older and
3. who knows or should have reasonably known
4. that a juvenile
5. was the victim of a violent offense, sexual offense, or misdemeanor child abuse
6. to knowingly or willfully
  - a. fail to report
  - b. prevent another person from reporting
7. as required by subsection (b) of G.S. 14-318.6.

Subsection (a) of the new statute defines some of these terms.

- The statute applies to any person, unlike the current obligation to report under G.S. 7B-301, which requires reporting to social services by the juvenile’s parent, guardian, custodian, or caretaker.
- The statute states that a juvenile is as defined in G.S. 7B-101 and, for purposes of the statute, the age of the juvenile at the time of the abuse or offense governs.
- A violent offense is one that inflicts serious bodily injury or serious physical injury as defined in G.S. 14-318.4(d), the felony child abuse statute, by other than accidental means. The term includes an attempt, solicitation, conspiracy, and aiding and abetting.
- Sexual offense is not defined. Rather, the statute defines “sexually violent offense” as an offense against a juvenile that is a sexually violent offense as defined in G.S. 14-208.6(5), which governs sex offender registration. The term “sexually violent offense” includes an attempt, solicitation, conspiracy, and aiding and abetting.
- Misdemeanor child abuse means misdemeanor child abuse under G.S. 14-318.2, which involves physical injury of a child under 16 years of age by a parent or other person providing care or supervision of the child.

Subsection (b) of the new statute details the reporting requirements. A person who knows or should have reasonably known that a juvenile is the victim of one of the specified offenses must immediately report the case to the appropriate law enforcement agency where the juvenile resides or is found. The person must include specific information, such as the name of the person who committed the offense. The reporting person must identify himself and herself, including his or her address and telephone number; the statute provides that the person’s identity is protected. If as a result of a report a law enforcement officer finds evidence that the juvenile may be abused, neglected, or dependent as defined

in G.S. 7B-101, the officer must make a report to social services, which in turn must investigate and take appropriate action.

The statute does not require reporting when a person is subject to the following privileges: attorney-client, G.S. 8-53.3 (psychologists), G.S. 8-53.7 (social workers), G.S. 8-53.8 (counselors), and G.S. 8-53.12 (rape crisis centers and domestic violence programs).

Revised G.S. 15-1 provides that the statute of limitations for a charge under new G.S. 14-318.6 is ten years from commission of the crime.

For further discussion, see Sara DePasquale, [BIG NEWS: S.L. 2019-245 Creates a New Universal Mandated Reporting Law for Child Victims of Crimes and Changes the Definition of “Caretaker”](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (Nov. 13, 2019).

*Ten-year statute of limitations for some misdemeanors.* Revised G.S. 15-1 provides that the following misdemeanors may be charged within ten years of the commission of the crime:

- G.S. 7B-301(b) (failure to report abuse, neglect, dependency, or death due to maltreatment)
- G.S. 14-27.33 (sexual battery)
- G.S. 14-202.2 (indecent liberties between children)
- G.S. 14-318.2 (misdemeanor child abuse)
- New G.S. 14-318.6 (failure to report crimes against juveniles)

*Ban on online use by people registered as sex offenders.* “In [Packingham v. North Carolina](#), the Supreme Court of the United States struck down G.S. 14-202.5, North Carolina’s ban on sex offenders accessing commercial social networking websites. The law violates the First Amendment.” Jamie Markham, [North Carolina’s Commercial Social Networking Ban for Sex Offenders Is Unconstitutional](#), N.C. CRIM. L., UNC SCH. OF GOV’T BLOG (June 22, 2017).

The act rewrites G.S. 14-202.5. Under the revised statute, it is a Class H felony for

1. a high-risk sex offender
2. to do any of the following online
  - a. communicate with a person that the offender believes is under 16 years,
  - b. contact a person that the offender believes is under 16 years old,
  - c. pose falsely as a person under 16 years old with the intent to commit an unlawful sex act with a person that the offender believes is under 16 years old,
  - d. use a website to gather information about a person that the offender believes is under 16 years old, or
  - e. use a commercial social networking website in violation of a policy, posted in a manner reasonably likely to come to the attention of users, prohibiting convicted sex offenders from using the site.



The statute defines some of these terms.

- Subsection (c1) of the revised statute defines “high-risk sex offender” as any person registered under G.S. Ch. 14, Art. 27A, the sex offender registration statutes, who was convicted of specified offenses against a person under 18 years old. Together, the listed offenses appear to include almost all registrable offenses if committed against a person under 18 years old.
- The statute does not define “online.” Rather, subsection (b) defines “commercial social networking website,” and subsection (c) excludes certain websites from that definition. In addition, revised G.S. 14-202.5A protects from civil liability commercial social networking websites that impose restrictions on use of their websites by high-risk sex offenders.

The statute includes a severability clause providing that if any provision or its application is held invalid, the invalidity does not affect other provisions or applications that can be given effect.

*Extended statute of limitations for civil actions.* Effective for civil actions commenced on or after December 1, 2019, revised G.S. 1-17 allows a plaintiff to file a civil action against a defendant

- until the plaintiff is 28 years old for claims related to sexual abuse while the plaintiff was under 18 years old, or
- within two years of a criminal conviction for a felony sexual offense for claims related to sexual abuse while the plaintiff was under 18 years old.

The act makes conforming changes to statutes of limitations in G.S. 1-53 and G.S. 1-56. It also provides that civil actions for child sexual abuse that are otherwise time-barred under G.S. 1-52 are revived from January 1, 2020, to December 1, 2021.

*Training for school personnel.* The act amends various statutes in G.S. Ch. 115C and Ch. 116 to require schools to adopt and implement a child sexual abuse and sex trafficking training program for school personnel who work directly with students in grades kindergarten through 12. New G.S. 115C-375.20 describes the required program. Schools must adopt and implement a training program by January 1, 2020, and must require the training for school personnel beginning with the 2020–21 school year.

*Revocation of consent to sex.* The act revises the definition of “against the will of the other person,” a required element of proof for forcible rape, forcible sexual offense, and sexual battery (except when the other person is mentally incapacitated, mentally disabled, or physically helpless and effectively incapable of consenting). New G.S. 14-27.20(1a) defines the element as either:

- without consent of the other person, or
- after consent is revoked by the other person, in a manner that would cause a reasonable person to believe consent is revoked.

The second clause explicitly recognizes the right to withdraw consent, responding to the North Carolina Supreme Court's 1979 decision in *State v. Way*, 297 N.C. 293 (1979), in which the Court appeared to take the position that if a woman consents to sexual intercourse and in the middle of the act changes her mind, the defendant is not guilty of rape for continuing to engage in intercourse with her. For further discussion, see John Rubin, ["No" Will Mean "No" in North Carolina](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Nov. 6, 2019).

*Capacity to consent to sex.* The act revises the definition of "mentally incapacitated," an alternative to proving that a sexual act was by force and against the will of the person. Revised G.S. 14-27.20(2) defines the term as a person who due to "any act" is rendered substantially incapable of either appraising the nature of his or her conduct or resisting the act of vaginal intercourse or a sexual act. Previously, the act had to be committed upon the victim or a poisonous or controlled substance had to be provided to the person without the knowledge or consent of the person.

The act also revises G.S. 14-401.11, which makes it a crime to distribute certain substances, to include beverages and other drinkable substances that may contain controlled substances or ingredients that may harm a person's health. Previously, the language referred to food and eatable substances.

*Right to be heard on petition to terminate sex offender registration.* New subsection (c) of G.S. 14-208.12A provides that the victim of the underlying offense may appear and be heard regarding a petition to terminate sex offender registration. If the victim has elected to receive notice of such proceedings, the district attorney's office must notify the victim of the date, time, and place of the hearing. The judge in any court proceeding must inquire whether the victim is present and wishes to be heard and, if so, must grant the victim an opportunity to be reasonably heard. The victim may choose to be heard through an oral statement, written statement, or audio or video statement.

*Residential restrictions.* G.S. 14-208.16, which prohibits a person who must register as a sex offender from residing near a school, is revised to provide that the term "school" includes "any construction project designated for use as a public school if the governing body has notified the sheriff or sheriffs with jurisdiction within 1,000 feet of the construction project of the construction of the public school."