

Criminal Law and Procedure

See full summary documents for additional detail

H67 - GSC Technical Corrections 2021. (SL 2021-88)

S.L. 2021-88 contains corrections of a technical nature to the General Statutes and session laws. This act also includes conforming changes that clarified that local governments that have not adopted comprehensive plans but that do have land-use plans are authorized to adopt zoning regulations. This act became effective July 22, 2021.

H68 - GSC Licensing Boards and Comm'ns/Rule Crimes. (SL 2021-84)

S.L. 2021-84 eliminates provisions that broadly criminalize violations of rules of certain licensing boards and commissions and makes technical and conforming amendments in the surrounding language, as recommended by the General Statutes Commission.

This act became effective December 1, 2021, and applies to offenses committed on or after that date.

H84 - Sex Offender Premises Restrictions. (SL 2021-115)

S.L. 2021-115 makes the following changes to restrictions placed on sex offenders:

- Extends premises restrictions to sex offenders convicted of any offense of sexual exploitation of a minor.
- Clarifies that convictions for misdemeanor offenses requiring registration as a sex offender are not eligible for expunction.
- Clarifies that the 1,000 foot residency restriction for registered sex offenders is measured from the structure or location where the offender resides, to the property line of the school or childcare center.

The substantive provisions of this act became effective December 1, 2021. Please see complete summary for applicability of effective date.

H238 - Prohibit Possession of Skimming Device. (SL 2021-68)

S.L. 2021-68 defines "skimming device" within the Financial Transaction Card Crime Act and makes the possession, sale, or delivery of a skimming device a Class I felony.

This act became effective December 1, 2021, and applies to offenses committed on or after that date.

H312 - Qualifications for Sheriff/Expunction. (SL 2021-107)

S.L. 2021-107, which became effective October 1, 2021, does the following:

- Clarifies that an individual who has been convicted of a felony, regardless of any expunctions or restoration of rights of citizenship, is ineligible for the office of sheriff, in accordance with Article VII, Section 2 of the North Carolina Constitution.
- Requires a candidate or appointee for the office of sheriff to file a disclosure statement prepared by the North Carolina Sheriff's Education and Training Standards Commission verifying that the candidate or appointee has no prior felony convictions or expungements of felony convictions.

H398 - Pistol Purchase Permit Repeal. (Ratified)

House Bill 398 would have repealed the requirement to obtain a pistol purchase permit from the sheriff prior to the purchase or transfer of a pistol.

House Bill 398 was ratified by the General Assembly August, 19, 2021, and vetoed by the Governor on August 30, 2021.

H481 - Firearm Disposal/UNC Campus Police. (SL 2021-116)

S.L. 2021-116 allows all State entities operating under the three branches of government and the on-campus police departments of constituent institutions of The University of North Carolina to dispose of surplus weapons with a federally licensed firearm dealer.

The restoration of firearms rights provision became effective December 1, 2021, and applied to petitions filed on or after that date. The remainder of the act became effective August 23, 2021.

H743 - Remove ID Mark and Increase Punishment. (SL 2021-36)

S.L. 2021-36 makes the alteration or destruction of an identifying number from personal property or certain machinery a Class H felony if the value of the item was greater than \$1,000.

H761 - Police Vehicle and Equipment Protection Act. (SL 2021-167)

S.L. 2021-167 does the following:

- Increases the penalty for breaking or entering into a vehicle owned by a law enforcement agency.
- Creates two new felony offenses for theft of equipment owned by a law enforcement agency.

This act became effective December 1, 2021, and applies to offenses committed on or after that date.

H805 - Prevent Rioting and Civil Disorder. (Ratified)

House Bill 805 would have made the following changes:

- Clarified that active conduct is required for criminal prosecution of riot offenses.
- Increased some penalties for current offenses and create new offenses related to rioting.
- Authorized a specific civil action for injury to person or property stemming from rioting, looting or trespass during an emergency.
- Included members of the National Guard in a prohibition on certain assaults on emergency personnel.
- Increased the penalty for certain assaults on emergency personnel.
- Created requirements for bail and pretrial release for defendants charged with rioting, and looting or trespass during an emergency.

House Bill 805 was ratified by the General Assembly on September 1, 2021, and vetoed by the Governor on September 10, 2021.

S43 - Protect Religious Meeting Places. (Ratified)

Senate Bill 43 would:

- Authorize carrying a handgun in a place of religious worship that is also educational property if:
 - The property is not owned by a local board of education or county commission.
 - The property is not a public or private institution of higher education.
 - The property is not posted with a notice prohibiting carrying a concealed handgun on the premises.
 - The handgun is only possessed and carried on the property outside of the school operating hours. School operating hours are defined as any time a curricular or extracurricular activity takes place on the premises, any time when the premises are used for educational, instructional, or school-sponsored activities, and any time the premises are being used for programs for minors by entities not affiliated with the religious institution.
- Authorize certain law enforcement facility employees to carry a concealed handgun in the facility.

Senate Bill 43 was ratified by the General Assembly on June 9, 2021, and vetoed by the Governor on June 18, 2021.

SECTIONS 1-4

S99 - Clarify Law on Theft of Catalytic Converters. (SL 2021-154)

Session Law 2021-154 makes the theft of a catalytic converter from a motor vehicle a Class I felony, and modifies the laws related to the purchase of catalytic converters.

The section of this act related to the purchase of catalytic converters became effective December 1, 2021, and applies to purchases and transactions made on or after that date. The remainder of this act became effective December 1, 2021, and applies to offenses committed on or after that date.

S183 - Ignition Interlock and Various Changes. (SL 2021-182)

S.L. 2021-182 does the following:

- Amends certain driving privilege restrictions.
- Allows an individual who owns multiple vehicles to designate certain vehicles for operation with an ignition interlock system.
- Expands the current waiver for undue financial hardship to equip a vehicle with a required ignition interlock system.
- Creates a study focused on expanded uses and supervision of ignition interlock systems.
- Makes technical and conforming changes related to S.L. 2021-138.
- Changes "Sheriff's Department" to "Sheriff's Office" in various sections of the General Statutes.

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

S300 - Criminal Justice Reform. (SL 2021-138)

S.L. 2021-138, as amended by Part II of S.L. 2021-182, makes various changes to the Criminal Code, and increases law enforcement standardization and oversight, with varying effective dates. Please see the full summary for more details on the provisions of this act.

S301 - Expand Expunction Eligibility. (SL 2021-118)

S.L. 2021-118 makes the following changes to statutes related to expunction of criminal offenses:

- Expands the criminal offenses eligible for expunction.
- Allows the expunction of an eligible offense despite an impaired driving conviction if the impaired driving conviction occurred more than than five years prior to the petition.
- Allows the expunction of up to three nonviolent felonies.
- Allows an attorney to file a petition for expunction on behalf of a person who committed certain crimes under the age of 18.
- Allows district attorney access to expunction records for determining conditional discharge eligibility.

This act became effective December 1, 2021. The provisions allowing additional offenses to be expunged and authorizing petitions to be filed on behalf persons that committed crimes under the age of 18 apply to petitions filed on or after that date.

S321 - Amend NC Controlled Substances Act. (SL 2021-155)

Session Law 2021-155 amends the North Carolina Controlled Substances Act to reflect developments in forensic chemistry. The act also adds certain substances to the controlled substance schedules, including moving fentanyl and carfentanil to the list of controlled substances punished as a Class I felony.

This act became effective December 1, 2021, and applies to offenses committed on or after that date.

S473 - Enhance Local Gov't Transparency. (SL 2021-191)

S.L. 2021-191 does the following:

- Requires the State Auditor (Auditor) to notify the Local Government Commission (Commission) when an audit report is the result of an investigation of a unit of local government, effective December 9, 2022.
- Allows the Commission, following the release of an investigative report, to be involved in that local government's audit process for up to three fiscal years, effective December 9, 2022 and applies to investigative reports conducted July 1, 2018 and after.
- Requires a local finance officer to garnish a board or council member's compensation in order to collect monies owed for unpaid county and city services, effective December 9, 2022.
- Creates a new felony offense for public officers who personally benefit financially from their position, effective January 1, 2022.
- Subject to certain exceptions, prohibits public officials from participating in making or administering a contract, including the award of money, with any nonprofit with which the public official is associated, effective January 1, 2022.

S605 - North Carolina Farm Act of 2021.

Sec. 2: Allow Magistrates to Waive Trials for State Forest Rule Offenses. (SL 2021-78)

Section 2 of S.L. 2021-78 allows magistrates to accept waivers of trial or hearing for misdemeanor or infraction cases involving State forest rule offenses. The State forest rules include regulations on bathing and swimming, horses, bicycle trails, hunting, and camping, as well as certain criminal laws. Other waivable offenses under current law include hunting, fishing, State park and recreation area rule offenses, open burning offenses, traffic offenses, and boating offenses.

This section became effective December 1, 2021, and applies to offenses committed on or after that date.

S605 - North Carolina Farm Act of 2021.

Sec. 3: Exempt Certain Fires from Open Burning Laws. (SL 2021-78)

Section 3 of S.L. 2021-78 exempts fires started for cooking, warming, or ceremonial events from the open burning laws, if the fire is confined in an enclosure from which burning material may not escape or within a protected area upon which a watch is being maintained and which is provided with adequate fire protection equipment. This exemption does not apply in cases where the Commissioner of Agriculture has prohibited all open burning during periods of hazardous forest fire conditions or during declared air pollution episodes.

This section became effective December 1, 2021, and applies to offenses committed on or after that date.

S605 - North Carolina Farm Act of 2021.

Sec. 5: Increase Punishment for Timber Larceny and Increase Civil Penalties for Damaging Timber or Agricultural Commodities. (SL 2021-78)

Section 5 of S.L. 2021-78:

- Makes it a Class G felony, with a requirement to pay restitution to the owner to the timber owner for three times the value of the timber, if a person does either of the following:
 - Knowingly and willfully cut down, injure, or remove timber owned by another person, without the consent of the owner of the land or timber, or other legal authority. There would be a good faith exception for employees or agents of an electric power supplier under certain circumstances.
 - Buy timber directly from the owner of the timber and fail to pay by the date specified in the written agreement, or if there is no agreement, 60 days from the date the buyer removes the timber from the property.
- In situations where a person enters the land of another without permission and injures, cuts or removes any valuable wood, timber, shrub or tree, or who willfully and intentionally sets fire to any wood, timber, tree or shrub on the property, allows the owner to recover triple the value of the wood, timber, shrub or tree from a person who violates this section.
- In situations where a person willfully injures or destroys another person's agricultural commodities or production system, allows the owner to recover triple the value of commodities or systems injured or destroyed.

This section became effective December 1, 2021, and applies to offenses committed and civil actions filed on or after that date.

S605 - North Carolina Farm Act of 2021.

Sec. 6: Require Timber Buyers and Timber Operators to Provide a Wood Load Ticket to Sellers of Certain Wood Products. (SL 2021-78)

Section 6 of S.L. 2021-78 requires a timber buyer or operator to provide a wood load ticket to a timber grower or seller. At a minimum, the wood load ticket is required to contain the name of the timber grower or seller, the county from which the wood product was severed, the amount of wood product severed, and the date the wood product was delivered to the timber buyer or operator. This does not apply to sales of firewood, a landowner harvesting and processing the landowner's own timber, or bulk or lump-sum sales for an agreed total price for all timber purchased and sold in one transaction. A violation of this section is a Class 2 misdemeanor.

This section became effective December 1, 2021, and applies to offenses committed on or after that date.

S605 - North Carolina Farm Act of 2021.

Sec. 7: Expand the Laws Enforced by the Department of Agriculture and Consumer Services Law Enforcement Officers. (SL 2021-78)

Section 7 of S.L. 2021-78 adds G.S. 14-135, "Cutting, injuring, or removing another's timber" and G.S. 14-140.1, "Certain fire to be guarded by watchman," to the definition of "Forest Laws" enforced by the North Carolina Forest Service.

This section became effective December 1, 2021, and applies to offenses committed on or after that date.