GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H **4**

HOUSE BILL 369*

Committee Substitute Favorable 4/9/13
Senate Judiciary I Committee Substitute Adopted 6/26/14
Senate Rules and Operations of the Senate Committee Substitute Adopted 7/16/14

Short Title: Criminal Law Changes. (Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO VARIOUS CRIMINAL LAWS, AND TO AMEND SERVICE OF PROCESS FOR SUMMARY EJECTMENT.

The General Assembly of North Carolina enacts:

MODIFY EXPUNCTIONS

SECTION 1.(a) G.S. 15A-145.5(a) reads as rewritten:

"**§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

(a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent felony" means any misdemeanor or felony except the following:

(1) A Class A through G felony or a Class A1 misdemeanor.
(2) An offense that includes assault as an essential element of the offense.
(3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.
(4) Any of the following sex-related or stalking offenses: G.S. 14-27.7A(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
(5) Any felony offense in Chapter 90 of the General Statutes where the offense involves methamphetamines, heroin, or possession with intent to sell or deliver or sell and deliver cocaine.
(6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for which punishment was determined pursuant to G.S. 14-3(c).
(7) An offense under G.S. 14-401.16.
(7a) An offense under G.S. 14-54(a), 14-54(a1), or 14-56.
(8) Any felony offense in which a commercial motor vehicle was used in the commission of the offense.
(9) Any offense that is an attempt to commit an offense described in subdivisions (1) through (8) of this subsection."

SECTION 1.(b) This section becomes effective December 1, 2014, and applies to petitions filed on or after that date, but petitions filed prior to that date are not abated by this act.

CONDITIONAL DISCHARGE IN LIEU OF DEFERRED PROSECUTION

SECTION 2.(a) G.S. 15A-1341 reads as rewritten:

"**§ 15A-1341. Probation generally.**

(a) Use of Probation. – Unless specifically prohibited, a person who has been convicted of any criminal offense may be placed on probation as provided by this Article if the class of offense of which the person is convicted and the person's prior record or conviction level under Article 81B of this Chapter authorizes a community or intermediate punishment as a type of sentence disposition or if the person is convicted of impaired driving under G.S. 20-138.1.

(a1) ~~Deferred Prosecution.~~ Conditional Discharge. – ~~A person who has been charged with~~ Whenever a person pleads guilty to or is found guilty of a Class H or I felony or a ~~misdemeanor may be placed~~ misdemeanor, the court may, on motion of the defendant and the prosecutor, and without entering a judgment of guilt and with the consent of the person, defer further proceedings and place the person on probation as provided in this Article ~~on motion of the defendant and the prosecutor~~ for the purpose of allowing the defendant to demonstrate the defendant's good conduct, if the court finds each of the following facts:

~~(1) Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.~~

(2) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.

(3) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.

(4) The defendant has not previously been placed on probation and so states under oath.

(5) The defendant is unlikely to commit another offense other than a Class 3 misdemeanor.

(a2) ~~Deferred Prosecution~~ Conditional Discharge for Purpose of Drug Treatment Court Program. – ~~A~~ When a defendant is eligible for a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General ~~Statutes may be placed on probation if the court finds that prosecution has been deferred by the prosecutor, with the approval of the court, pursuant to a written agreement with the defendant,~~ Statutes, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation for the purpose of allowing the defendant to participate in and successfully complete the Drug Treatment Court Program.

(a3) ~~Deferred Prosecution~~ Conditional Discharge for Prostitution. – A defendant ~~whose prosecution is deferred pursuant to G.S. 14-204(c)~~ for whom the court orders a conditional discharge pursuant to G.S. 14-204(b) may be placed on probation as provided in this Article.

(a4) Compliance With Terms of Conditional Discharge. – Upon violation of a term or condition of a conditional discharge granted pursuant to this section, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions of a conditional discharge granted pursuant to this section, any plea or finding of guilty previously entered shall be withdrawn and the court shall discharge the person and dismiss the proceedings against the person.

(b) Supervised and Unsupervised Probation. – The court may place a person on supervised or unsupervised probation. A person on unsupervised probation is subject to all incidents of probation except supervision by or assignment to a probation officer.

(c) Repealed by Session Laws 1995, c. 429, s. 1.

(d) Search of Sex Offender Registration Information Required When Placing a Defendant on Probation. – When the court places a defendant on probation, the probation officer assigned to the defendant shall conduct a search of the defendant's name or other identifying information against the registration information regarding sex offenders compiled

by the Division of Criminal Statistics of the Department of Justice in accordance with Article 27A of Chapter 14 of the General Statutes. The probation officer may conduct the search using the Internet site maintained by the Division of Criminal Statistics.

(e) Review of Defendant's Juvenile Record. – The probation officer assigned to a defendant may examine and obtain copies of the defendant's juvenile record in a manner consistent with G.S. 7B-3000(b) and (e1)."

SECTION 2.(b) G.S. 7A-49.4(b) reads as rewritten:

"(b) Administrative Settings. – An administrative setting shall be calendared for each felony within 60 days of indictment or service of notice of indictment if required by law, or at the next regularly scheduled session of superior court if later than 60 days from indictment or service if required. At an administrative setting:

(1) The court shall determine the status of the defendant's representation by counsel;

(2) After hearing from the parties, the court shall set deadlines for the delivery of discovery, arraignment if necessary, and filing of motions;

(3) If the district attorney has made a determination regarding a plea arrangement, the district attorney shall inform the defendant as to whether a plea arrangement will be offered and the terms of any proposed plea arrangement, and the court may conduct a plea conference if supported by the interest of justice;

(4) The court may hear pending pretrial motions, set such motions for hearing on a date certain, or defer ruling on motions until the trial of the case; and

(5) The court may schedule more than one administrative setting if requested by the parties or if it is found to be necessary to promote the fair administration of justice in a timely manner.

Whenever practical, administrative settings shall be held by a superior court judge residing within the district, but may otherwise be held by any superior court judge.

If the parties have not otherwise agreed upon a trial date, then upon the conclusion of the final administrative setting, the district attorney shall announce a proposed trial date. The court shall set that date as the tentative trial date unless, after providing the parties an opportunity to be heard, the court determines that the interests of justice require the setting of a different date. In that event, the district attorney shall set another tentative trial date during the final administrative setting. The trial shall occur no sooner than 30 days after the final administrative setting, except by agreement of the State and the defendant.

Nothing in this section precludes the disposition of a criminal case by ~~plea, deferred prosecution,~~ plea or dismissal prior to an administrative setting."

SECTION 2.(c) G.S. 7A-272 reads as rewritten:

"**§ 7A-272. Jurisdiction of district court; concurrent jurisdiction in guilty or no contest pleas for certain felony offenses; appellate and appropriate relief procedures applicable.**

…

(e) With the consent of the chief district court judge and the senior resident superior court judge, the district court has jurisdiction to preside over the supervision of a probation judgment entered in superior court in which the defendant is required to participate in a drug treatment court program pursuant to G.S. 15A-1343(b1)(2b) or a therapeutic court as defined in subsection (f) of this section, or is participating in the drug treatment court pursuant to ~~a deferred prosecution agreement under~~ the terms of a conditional discharge under G.S. 15A-1341(a2). The district court may modify or extend the probation judgment, but jurisdiction to revoke probation supervised under this subsection is as provided in G.S. 7A-271(f).

(f) As used in subsection (e) of this section, the term "therapeutic court" refers to a court, other than drug treatment court established pursuant to Article 62 of Chapter 7A of the General Statutes, in which a criminal defendant, either as a condition of probation or pursuant to ~~a deferred prosecution agreement~~ the terms of a conditional discharge under G.S. 15A-1341, is ordered to participate in specified activities designed to address underlying problems of substance abuse and mental illness that contribute to the person's criminal activity. The ordered activities shall, at a minimum, require the person to participate in treatment and attend regular court sessions of the therapeutic court over an extended period of time. The senior resident superior court judge and the chief district court judge shall agree in writing that the therapeutic court is being established and shall file the written agreement with the Administrative Office of the Courts before jurisdiction established by subsection (e) of this section may be exercised by the district court."

SECTION 2.(d) G.S. 14-313(f) reads as rewritten:

"(f) ~~Deferred prosecution.~~Conditional Discharge. – Notwithstanding G.S. 15A-1341(a1), any person charged with a misdemeanor under this section shall be qualified for ~~deferred prosecution~~ a conditional discharge pursuant to Article 82 of Chapter 15A of the General Statutes provided the defendant has not previously been placed on probation for a violation of this section and so states under oath."

SECTION 2.(e) G.S. 15A-146(d) reads as rewritten:

"(d) A person charged with a crime that is dismissed pursuant to compliance with a deferred prosecution agreement or the terms of a conditional discharge and who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars ($175.00) at the time the petition is filed. Fees collected under this subsection are payable to the Administrative Office of the Courts. The clerk of superior court shall remit one hundred twenty-two dollars and fifty cents ($122.50) of each fee to the North Carolina Department of Justice for the costs of criminal record checks performed in connection with processing petitions for expunctions under this section. The remaining fifty-two dollars and fifty cents ($52.50) of each fee shall be retained by the Administrative Office of the Courts and used to pay the costs of processing petitions for expunctions under this section. This subsection does not apply to petitions filed by an indigent."

SECTION 2.(f) G.S. 15A-932 reads as rewritten:

"**§ 15A-932. Dismissal with leave when defendant fails to appear and cannot be readily ~~found or pursuant to a deferred prosecution agreement.~~found.**

(a) The prosecutor may enter a dismissal with leave for nonappearance when a defendant:

(1) Cannot be readily found to be served with an order for arrest after the grand jury had indicted him; or

(2) Fails to appear at a criminal proceeding at which his attendance is required, and the prosecutor believes the defendant cannot be readily found.

~~(a1) The prosecutor may enter a dismissal with leave pursuant to a deferred prosecution agreement entered into in accordance with the provisions of Article 82 of this Chapter.~~

(b) Dismissal with leave for nonappearance ~~or pursuant to a deferred prosecution agreement~~ results in removal of the case from the docket of the court, but all process outstanding retains its validity, and all necessary actions to apprehend the defendant, investigate the case, or otherwise further its prosecution may be taken, including the issuance of nontestimonial identification orders, search warrants, new process, initiation of extradition proceedings, and the like.

(c) The prosecutor may enter the dismissal with leave for nonappearance ~~or pursuant to a deferred prosecution agreement~~ orally in open court or by filing the dismissal in writing with the clerk. If the dismissal for nonappearance ~~or pursuant to a deferred prosecution agreement~~ is entered orally, the clerk must note the nature of the dismissal in the case records.

(d) Upon apprehension of the defendant, or in the discretion of the prosecutor when he believes apprehension is imminent, the prosecutor may reinstitute the proceedings by filing written notice with the clerk.

(d1) If the proceeding was dismissed pursuant to subdivision (2) of subsection (a) of this section and charged only offenses for which written appearance, waiver of trial or hearing, and plea of guilty or admission of responsibility are permitted pursuant to G.S. 7A-148(a), and the defendant later tenders to the court that waiver and payment in full of all applicable fines, costs, and fees, the clerk shall accept said waiver and payment without need for a written reinstatement from the prosecutor. Upon disposition of the case pursuant to this subsection, the clerk shall recall any outstanding criminal process in the case pursuant to G.S. 15A-301(g)(2)b.

(e) If the defendant fails to comply with the terms of a deferred prosecution agreement, the prosecutor may reinstitute the proceedings by filing written notice with the clerk."

SECTION 2.(g) G.S. 15A-1342 reads as rewritten:

"**§ 15A-1342. Incidents of probation.**

(a) Period. – The court may place a convicted offender on probation for the appropriate period as specified in G.S. 15A-1343.2(d), not to exceed a maximum of five years. The court may place a defendant as to whom prosecution has been deferred or who receives a conditional discharge on probation for a maximum of two years. The probation remains conditional and subject to revocation during the period of probation imposed, unless terminated as provided in subsection (b) or G.S. 15A-1341(c).

Extension. – In addition to G.S. 15A-1344, the court with the consent of the defendant may extend the period of probation beyond the original period (i) for the purpose of allowing the defendant to complete a program of restitution, or (ii) to allow the defendant to continue medical or psychiatric treatment ordered as a condition of the probation. The period of extension shall not exceed three years beyond the original period of probation. The special extension authorized herein may be ordered only in the last six months of the original period of probation. Any probationary judgment form provided to a defendant on supervised probation shall state that probation may be extended pursuant to this subsection.

(a1) Supervision of Defendants on Deferred ~~Prosecution.~~Prosecution or Conditional Discharge. – The Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety may be ordered by the court to supervise an offender's compliance with the terms of a conditional discharge or deferred prosecution agreement entered into under G.S. 15A-1341(a1) or (a3). Violations of the terms of the agreement shall be reported to the court as provided in this Article and to the district attorney in the district in which the agreement was entered.

…

(i) Immunity from Prosecution upon Compliance. – Upon the expiration or early termination as provided in subsection (b) of a period of probation imposed after deferral of prosecution and before ~~conviction,~~ conviction or a conditional discharge, the defendant shall be immune from prosecution of the charges ~~deferred.~~deferred or discharged and dismissed.

…."

SECTION 2.(h) G.S. 15A-1343 reads as rewritten:

"**§ 15A-1343. Conditions of probation.**

…

(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of forty dollars ($40.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule.

Supervision fees must be paid to the clerk of court for the county in which the judgment was ~~entered or~~ entered, the deferred prosecution agreement was ~~filed.~~ filed, or the conditional discharge was ordered. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund.

(c2) Electronic Monitoring Device Fees. – Any person placed on house arrest with electronic monitoring under subsection (a1) or (b1) of this section shall pay a fee of ninety dollars ($90.00) for the electronic monitoring device and a daily fee in an amount that reflects the actual cost of providing the electronic monitoring. The court may exempt a person from paying the fees only for good cause and upon motion of the person placed on house arrest with electronic monitoring. The court may require that the fees be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods if the officer is authorized by subsection (g) of this section to determine the payment schedule. The fees must be paid to the clerk of court for the county in which the judgment was ~~entered or~~ entered, the deferred prosecution agreement was ~~filed.~~filed, or the conditional discharge was ordered. Fees collected under this subsection for the electronic monitoring device shall be transmitted to the State for deposit into the State's General Fund. The daily fees collected under this subsection shall be remitted to the Department of Public Safety to cover the costs of providing the electronic monitoring."

SECTION 2.(i) G.S. 143B-708 reads as rewritten:

"**§ 143B-708. Community service program.**

…

(c) A fee of two hundred fifty dollars ($250.00) shall be paid by all persons who participate in the program or receive services from the program staff. Only one fee may be assessed for each sentencing transaction, even if the person is assigned to the program on more than one occasion, or while on deferred prosecution, a conditional discharge, or ~~while~~ serving a sentence for the offense. A sentencing transaction shall include all offenses considered and adjudicated during the same term of court. Fees collected pursuant to this subsection shall be deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which the person is convicted, regardless of whether the person is participating in the program as a condition of parole, of probation imposed by the court, or pursuant to the exercise of authority delegated to the probation officer pursuant to G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of a conditional discharge or a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full before the person may participate in the community service program, except that:

(1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before the person pays the fee by the court in which the person is convicted; or

(2) A person performing community service pursuant to a conditional discharge, deferred prosecution or similar agreement may be given an extension of time or allowed to begin community service before the fee is paid by the official or agency representing the State in the agreement.

(3) A person performing community service as a condition of parole may be given an extension of time to pay the fee by the Post-Release Supervision and Parole Commission. No person shall be required to pay the fee before beginning the community service unless the Commission orders the person to do so in writing.

(4) A person performing community service as ordered by a probation officer pursuant to authority delegated by G.S. 15A-1343.2 may be given an

extension of time to pay the fee by the probation officer exercising the delegated authority.

…

(e) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service, including a willful failure to pay any moneys due the State under any court order or payment schedule adopted by the Section of Community Corrections of the Division of Adult Correction. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the last known address available to the preparer of the notice and reasonably believed to provide actual notice to the person. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. The hearing may be held in the county in which the ~~probation judgment or deferred prosecution~~ order requiring the performance of community service was imposed, the county in which the violation occurred, or the county of residence of the person. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

SECTION 2.(j) This section becomes effective December 1, 2014. Deferred prosecution agreements filed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those deferred prosecutions.

POSSESSION OF MARIJUANA PARAPHERNALIA/CLASS 3 MISDEMEANOR

SECTION 3.(a) G.S. 90-113.22 reads as rewritten:

"**§ 90-113.22. Possession of drug paraphernalia.**

(a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a controlled substance other than marijuana which it would be unlawful to possess, or to inject, ingest, inhale, or otherwise introduce into the body a controlled substance other than marijuana which it would be unlawful to possess.

(b) ~~Violation~~ Except as provided in G.S. 90-113.22A, a violation of this section is a Class 1 misdemeanor.

(c) Prior to searching a person, a person's premises, or a person's vehicle, an officer may ask the person whether the person is in possession of a hypodermic needle or other sharp object that may cut or puncture the officer or whether such a hypodermic needle or other sharp object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or other sharp object on the person, on the person's premises, or in the person's vehicle and the person alerts the officer of that fact prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object. The exemption under this subsection does not apply to any other drug paraphernalia that may be present and found during the search. For purposes of this subsection, the term "officer" includes "criminal

justice officers" as defined in G.S. 17C-2(3) and a "justice officer" as defined in G.S. 17E-2(3)."

SECTION 3.(b) Article 5B of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 90-113.22A. Possession of marijuana drug paraphernalia.**

(a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal marijuana, or to inject, ingest, inhale, or otherwise introduce marijuana into the body.

(b) A violation of this section is a Class 3 misdemeanor."

SECTION 3.(c) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

HUMAN TRAFFICKING COMMISSION/STUDY ERIN'S LAW

SECTION 4.(a) The Human Trafficking Commission established by G.S. 114-70, in consultation with Prevent Child Abuse North Carolina; the North Carolina Coalition Against Sexual Assault; the National Association of Social Workers, North Carolina Chapter; and two representatives of local child advocacy agencies, shall study the prevention of sexual abuse of children. As part of this study, the Commission shall do the following:

(1) Gather information concerning the occurrence of child sexual abuse throughout the State.

(2) Identify statewide goals to prevent child sexual abuse.

(3) Examine age-appropriate curricula on the subject of sexual abuse for students in kindergarten through grade six that could be included as part of the Basic Education Program for the public schools.

(4) Identify methods for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children, including the warning signs indicating that a child may be a victim of sexual abuse, actions that a child who is a victim of sexual abuse may take to obtain assistance and intervention, and available counseling options for children affected by sexual abuse.

(5) Study any other issue the Commission considers relevant to this topic.

SECTION 4.(b) The Human Trafficking Commission shall submit a final report of the results of its study and its recommendations, including any proposed legislation, to the 2015 General Assembly.

INCREASE PENALTY FOR GIVING OR SELLING A CELL PHONE TO AN INMATE/MAKE IT UNLAWFUL FOR STATE INMATE TO POSSESS A CELL PHONE/INCREASE PENALTY FOR INMATE OF LOCAL CONFINEMENT FACILITY TO POSSESS CELL PHONE

SECTION 5.(a) G.S. 14-258.1 reads as rewritten:

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

...

(d) Any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Division of Adult Correction of the Department of Public Safety or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such

device or component to a person who is not an inmate for delivery to an inmate, is guilty of a ~~Class 1 misdemeanor.~~Class H felony.

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

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

SECTION 5.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

ASSAULT ON A LEGISLATIVE, EXECUTIVE, OR COURT OFFICIAL/THREATS/SOLICITATION BY AN INMATE

SECTION 6.(a) G.S. 14-16.6(a) reads as rewritten:

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

SECTION 6.(b) G.S. 14-16.7 reads as rewritten:

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

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

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

SECTION 6.(c) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

ADD RETIRED QUALIFIED CORRECTIONAL OFFICERS/COURSE EXEMPTION

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

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

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

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

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

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

SECTION 7.(b) G.S. 14-415.12A(a) reads as rewritten:

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

SECTION 7.(c) This section is effective when this act becomes law.

REMOTE VIDEO TESTIMONY BY FORENSIC AND CHEMICAL ANALYSTS

SECTION 8.(a) Article 73 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1225.3. Forensic analyst remote testimony.**

(a) Definitions. – The following definitions apply to this section:

(1) Criminal proceeding. – Any hearing or trial in a prosecution of a person charged with violating a criminal law of this State and any hearing or proceeding conducted under Subchapter II of Chapter 7B of the General Statutes where a juvenile is alleged to have committed an offense that would be a criminal offense if committed by an adult.

(2) Remote testimony. – A method by which a forensic analyst testifies from a location other than the location where the hearing or trial is being conducted and outside the physical presence of a party or parties.

(b) Remote Testimony Authorized. – In any criminal proceeding, the testimony of an analyst regarding the results of forensic testing admissible pursuant to G.S. 8-58.20, and reported by that analyst, shall be permitted by remote testimony if all of the following occur:

(1) The State has provided a copy of the report to the attorney of record for the defendant, or to the defendant if that person has no attorney, as required by G.S. 8-58.20(d). For purposes of this subdivision, "report" means the full laboratory report package provided to the district attorney.

(2) The State notifies the attorney of record for the defendant, or the defendant if that person has no attorney, at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the testimony regarding the results of forensic testing into evidence using remote testimony.

(3) The defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the testimony will be presented that the defendant objects to the introduction of the remote testimony.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the analyst shall be allowed to testify by remote testimony.

(c) Testimony. – The method used for remote testimony authorized by this section shall allow the trier of fact and all parties to observe the demeanor of the analyst as the analyst testifies in a similar manner as if the analyst were testifying in the location where the hearing or trial is being conducted. The court shall ensure that the defendant's attorney, or the defendant if that person has no attorney, has a full and fair opportunity for examination and cross-examination of the analyst.

(d) Nothing in this section shall preclude the right of any party to call any witness."

SECTION 8.(b) G.S. 20-139.1 is amended by adding a new subsection to read:

"(c5) The testimony of an analyst regarding the results of a chemical analysis of blood or urine admissible pursuant to subsection (c1) of this section, and reported by that analyst, shall be permitted by remote testimony, as defined in G.S. 15A-1225.3, in all administrative hearings, and in any court, if all of the following occur:

(1) The State has provided a copy of the report to the attorney of record for the defendant, or to the defendant if that person has no attorney, as required by subsections (c1) and (c3) of this section.

(2) The State notifies the attorney of record for the defendant, or the defendant if that person has no attorney, at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the testimony regarding the chemical analysis into evidence using remote testimony.

(3) The defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the testimony will be presented that the defendant objects to the introduction of the remote testimony.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the analyst shall be allowed to testify by remote testimony.

The method used for remote testimony authorized by this subsection shall allow the trier of fact and all parties to observe the demeanor of the analyst as the analyst testifies in a similar manner as if the analyst were testifying in the location where the hearing or trial is being conducted. The court shall ensure that the defendant's attorney, or the defendant if that person has no attorney, has a full and fair opportunity for examination and cross-examination of the analyst.

Nothing in this section shall preclude the right of any party to call any witness. Nothing in this subsection shall obligate the Administrative Office of the Courts or the State Crime Laboratory to incur expenses related to remote testimony absent an appropriation of funds for that purpose."

SECTION 8.(c) This section becomes effective September 1, 2014, and applies to testimony admitted on or after that date.

PERMIT DETENTION OFFICERS TO CARRY WEAPONS ON CAMPUS OR OTHER EDUCATIONAL PROPERTY WHEN DISCHARGING OFFICIAL DUTIES

SECTION 9.(a) G.S. 14-269.2 reads as rewritten:

"**§ 14-269.2. Weapons on campus or other educational property.**

…

(g) This section shall not apply to any of the following:

(1) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority.

(1a) A person exempted by the provisions of G.S. 14-269(b).
(2) Firefighters, emergency service personnel, ~~and~~ North Carolina Forest Service personnel, detention officers employed by and authorized by the sheriff to carry firearms, and any private police employed by a school, when acting in the discharge of their official duties.
(3) Home schools as defined in G.S. 115C-563(a).
(4) Weapons used for hunting purposes on the Howell Woods Nature Center property in Johnston County owned by Johnston Community College when used with the written permission of Johnston Community College or for hunting purposes on other educational property when used with the written permission of the governing body of the school that controls the educational property.
(5) A person registered under Chapter 74C of the General Statutes as an armed armored car service guard or an armed courier service guard when acting in the discharge of the guard's duties and with the permission of the college or university.
(6) A person registered under Chapter 74C of the General Statutes as an armed security guard while on the premises of a hospital or health care facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university.
(7) A volunteer school safety resource officer providing security at a school pursuant to an agreement as provided in G.S. 115C-47(61) and either G.S. 162-26 or G.S. 160A-288.4, provided that the volunteer school safety resource officer is acting in the discharge of the person's official duties and is on the educational property of the school that the officer was assigned to by the head of the appropriate local law enforcement agency."

SECTION 9.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

PROVIDE THAT AIR RIFLES, AIR PISTOLS, AND BB GUNS ARE NOT INCLUDED IN THE DEFINITION OF "DANGEROUS FIREARMS" FOR CERTAIN PURPOSES IN THE FOLLOWING COUNTIES: ANSON, CLEVELAND, HARNETT, STANLY, AND SURRY

SECTION 10.(a) G.S. 14-316 reads as rewritten:

"**§ 14-316. Permitting young children to use dangerous firearms.**

(a) It shall be unlawful for any person to knowingly permit a child under the age of 12 years to have access to, or possession, custody or use in any manner whatever, of any gun, pistol or other dangerous firearm, whether such weapon be loaded or unloaded, unless the person has the permission of the child's parent or guardian, and the child is under the supervision of an adult. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(b) Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within the meaning of subsection (a) of this section except in the following counties: ~~Anson,~~ Caldwell, Caswell, Chowan, ~~Cleveland,~~ Cumberland, Durham, Forsyth, Gaston, ~~Harnett,~~ Haywood, Mecklenburg, ~~Stanly,~~ Stokes, ~~Surry,~~ Union, Vance."

SECTION 10.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

SUMMARY EJECTMENT SERVICE OF PROCESS

SECTION 11.(a) G.S. 1A-1, Rule 4(h1), reads as rewritten:

"(h1) Summons – When process returned unexecuted. – If a proper officer returns a summons or other process unexecuted, the plaintiff or his agent or attorney may cause service to be made by anyone who is not less than 21 years of age, who is not a party to the action, and who is not related by blood or marriage to a party to the action or to a person upon whom service is to be made. This subsection shall not apply to executions pursuant to Article 28 of ~~Chapter 1 or summary ejectment pursuant to Article 3 of Chapter 42 of the General Statutes.~~Chapter 1 of the General Statutes."

SECTION 11.(b) This section becomes effective October 1, 2014.

PROPER IMPLEMENTATION OF EXPUNCTION LAWS

SECTION 12.(a) G.S. 15A-145.5(f) reads as rewritten:

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

SECTION 12.(b) This section is effective when it becomes law and applies to expunctions issued pursuant to G.S. 15A-145.5 before, on, or after that date.

INCREASE PENALTY FOR SECOND OFFENSE OF CARRYING A CONCEALED WEAPON THAT IS A FIREARM

SECTION 13.(a) G.S. 14-269(c) reads as rewritten:

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

SECTION 13.(b) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

EFFECTIVE DATE

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