

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

SESSION LAW 2020-83  
HOUSE BILL 593

AN ACT TO MAKE VARIOUS MODIFICATIONS TO THE GENERAL STATUTES RELATED TO JUVENILE CRIME PREVENTION COUNCILS, INDIVIDUALS UNDER EIGHTEEN IN CUSTODY, THE STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM, CRIMINAL COURT FEES, AND RADIOLOGICAL EMERGENCY PLANNING FEES; TO APPROPRIATE FUNDS; TO CREATE A REGISTRY REQUIREMENT REVIEW FOR CERTAIN SEX OFFENDERS; AND TO CLARIFY DECLARATION PUBLICATION.

The General Assembly of North Carolina enacts:

**PART I. JUVENILE CRIME PREVENTION COUNCILS**

**SECTION 1.** G.S. 143B-811 reads as rewritten:

**"§ 143B-811. Annual evaluation of ~~community programs and multiple purpose group homes.~~intensive intervention services.**

The Department of Public Safety shall conduct an annual evaluation of ~~the community programs and of multipurpose group homes.~~ intensive intervention services. Intensive intervention services are evidence-based or research-supported community-based or residential services that are necessary for a juvenile in order to (i) prevent the juvenile's commitment to a youth development center or detention facility or (ii) facilitate the juvenile's successful return to the community following commitment. In conducting the ~~evaluation of each of these,~~ evaluation, the Department shall consider whether participation in ~~each program~~ intensive intervention services results in a reduction of court involvement among juveniles. The Department shall also determine whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202.

The Department shall report the results of the evaluation to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year."

**SECTION 2.** G.S. 143B-846 reads as rewritten:

**"§ 143B-846. Creation; method of appointment; membership; chair and vice-chair.**

(a) As a prerequisite for a county receiving funding for juvenile court services and delinquency prevention programs, the board of commissioners of a county shall appoint a Juvenile Crime Prevention Council. ~~Each County Council is a continuation of the corresponding Council created under G.S. 147-33.61.~~ The County Council shall consist of not more than 26 members and should include, if possible, the following:

- (1) The local school superintendent, or that person's ~~designee;~~designee.
- (2) A chief of police in the ~~county;~~county, or the appointed chief's ~~designee.~~designee.
- (3) The local sheriff, or that person's ~~designee;~~designee.
- (4) The district attorney, or that person's ~~designee;~~designee.
- (5) The chief court counselor, or that person's ~~designee;~~designee.



- (6) The director of the area ~~mental health, developmental disabilities, and substance abuse authority, local management entity/managed care organization (LME/MCO)~~ or that person's ~~designee;designee.~~
- (7) The director of the county department of social services, or consolidated human services agency, or that person's ~~designee;designee.~~
- (8) The county manager, or that person's ~~designee;designee.~~
- (9) A substance abuse ~~professional;professional.~~
- (10) A member of the faith ~~community;community.~~
- (11) A county ~~commissioner;commissioner.~~
- (12) Two persons under the age of ~~18 years, one of whom is a member of the State Youth Council;~~21 years, or one person under the age of 21 years and one member of the public representing the interests of families of at-risk juveniles.
- (13) A juvenile defense ~~attorney;attorney.~~
- (14) The chief district court judge, or a judge designated by the chief district court ~~judge;judge.~~
- (15) A member of the business ~~community;community.~~
- (16) The local health director, or that person's ~~designee;designee.~~
- (17) A representative from the United Way or other nonprofit ~~agency;agency.~~
- (18) A representative of a local parks and recreation ~~program; and program.~~
- (19) Up to seven members of the public to be appointed by the board of commissioners of a county.

The board of commissioners of a county shall modify the County Council's membership as necessary to ensure that the members reflect the racial and socioeconomic diversity of the community and to minimize potential conflicts of interest by members.

(b) Two or more counties may establish a multicounty Juvenile Crime Prevention Council under subsection (a) of this section. The membership shall be representative of each participating county.

(c) The members of the County Council shall elect annually the chair and vice-chair."

**SECTION 3.** G.S. 143B-849 reads as rewritten:

**"§ 143B-849. Meetings; quorum.**

County Councils shall meet at least ~~bimonthly, six times per year,~~ or more often if a meeting is called by the chair.

A majority of members constitutes a quorum."

**SECTION 4.** G.S. 143B-851 reads as rewritten:

**"§ 143B-851. Powers and duties.**

(a) Each County Council shall review ~~annually~~ biennially the needs of juveniles in the county who are at risk of delinquency or who have been adjudicated undisciplined or delinquent and the resources available to address those needs. In particular, each County Council shall assess the needs of juveniles in the county who are at risk or who have been associated with gangs or gang activity, and the local resources that are established to address those needs. The Council shall develop and advertise a request for proposal process and submit a written plan of action for the expenditure of juvenile sanction and prevention funds to the board of county commissioners for its approval. Upon the county's authorization, the plan shall be submitted to the Section for final approval and subsequent implementation.

...

(d) The Councils may examine the benefits of joint program development between counties ~~within the same and judicial district.~~ districts."

**SECTION 5.** G.S. 143B-1104 is recodified as G.S. 143B-853 and reads as rewritten:

**"§ 143B-853. Funding for programs.**

(a) Annually, the Division of ~~Administration~~ Adult Correction and Juvenile Justice shall develop and implement a funding mechanism for programs that meet the standards developed

under ~~Subpart F of Part 3 of Article 13 of Chapter 143B of the General Statutes.~~ this Subpart. The Division shall ensure that the guidelines for the State and local partnership's funding process include the following requirements:

- (1) Fund effective programs. – The Division shall fund programs that it determines to be effective in preventing delinquency and recidivism. Programs that have proven to be ineffective shall not be funded.
- (2) Use a formula for the distribution of funds. – A funding formula shall be developed that ensures that even the smallest counties will be able to provide the basic prevention and alternative services to juveniles in their communities.
- (3) Allow and encourage local flexibility. – A vital component of the State and local partnership established by this section is local flexibility to determine how best to allocate prevention and alternative funds.
- (4) Combine resources. – Counties shall be allowed and encouraged to combine resources and services.
- (5) Allow for a two-year funding cycle. – In the discretion of the Division, awards may be provided in amounts that fund two years of services for programs that meet the requirements of this section and have been awarded funds in a prior funding cycle.

(b) The Division shall adopt rules to implement this section. The Division shall provide technical assistance to County Councils and shall require them to evaluate all State-funded programs and services on an ongoing and regular basis.

(c) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and annually thereafter, on the results of ~~the alternatives to commitment demonstration programs funded by Section 16.7 of S.L. 2004-124. The 2007 report and all annual reports thereafter shall also include projects funded by Section 16.11 of S.L. 2005-276 for the 2005-2006 fiscal year.~~ intensive intervention services. Intensive intervention services are evidence-based or research-supported community-based or residential services that are necessary for a juvenile in order to (i) prevent the juvenile's commitment to a youth development center or detention facility or (ii) facilitate the juvenile's successful return to the community following commitment. Specifically, the report shall provide a detailed description of each ~~of the demonstration programs,~~ intensive intervention service, including the numbers of juveniles served, their adjudication status at the time of service, the ~~services/treatments~~ services and treatments provided, the length of service, the total cost per juvenile, and the six- and 12-month recidivism rates for the juveniles after the termination of program services."

**SECTION 6.(a)** Of the funds appropriated to the Department of Public Safety, Division of Adult Correction and Juvenile Justice (Division), for the 2019-2021 fiscal biennium that are provided to Juvenile Crime Prevention Councils (JCPC) to be used for alternatives to commitment and Level 2 dispositional alternatives, the requirements of this section shall apply for the 2019-2021 fiscal biennium.

**SECTION 6.(b)** The funds described in subsection (a) of this section shall be known as funds for intensive intervention services and shall be used for the purpose of providing intensive intervention services for juveniles of any disposition level, based on the needs of the juvenile, as ordered pursuant to G.S. 7B-2506. Intensive intervention services are evidence-based or research-supported community-based or residential services that are necessary for a juvenile in order to (i) prevent the juvenile's commitment to a youth development center or detention facility or (ii) facilitate the juvenile's successful return to the community following commitment. The Division of Adult Correction and Juvenile Justice shall conduct an open-bid, competitive award process to determine the allocation of JCPC funds among counties. The Division shall identify and select the most effective evidence-based or research-supported methods of meeting

the needs of juveniles served. The Division shall, in its discretion, determine the number and amount of awards provided, but in exercising its discretion, shall give consideration to the following:

- (1) The commitment rates or frequency with which the court orders commitment as a disposition for the juveniles served.
- (2) The disposition levels and criminogenic needs of the juveniles served.
- (3) Programs that target juveniles in rural areas.
- (4) Diverse geographical representation across the State.
- (5) Programs that utilize collaboration among counties.

**SECTION 7.** Sections 1, 2, 3, and 4 of this act become effective December 1, 2020. Sections 5, 6, and 7 of this act become effective July 1, 2020.

## **PART II. JUVENILE DETENTION**

**SECTION 8.(a)** G.S. 7A-109.3 reads as rewritten:

### **"§ 7A-109.3. Delivery of commitment order.**

(a) Whenever the district court sentences a person to imprisonment and commitment to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 48 hours of the issuance of the sentence.

(a1) If the district court sentences a person under the age of 18 to imprisonment and commitment, the clerk of superior court shall furnish the detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice with the signed order of commitment within 48 hours of the issuance of the sentence.

(b) Whenever the superior court sentences a person to imprisonment and commitment to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pursuant to G.S. 15A-1352, the clerk of superior court shall furnish the sheriff with the signed order of commitment within 72 hours of the issuance of the sentence.

(b1) If the superior court sentences a person under the age of 18 to imprisonment and commitment, the clerk of superior court shall furnish the detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice with the signed order of commitment within 48 hours of the issuance of the sentence."

**SECTION 8.(b)** G.S. 15-6 reads as rewritten:

### **"§ 15-6. Imprisonment to be in county jail.**

No person over the age of 18 shall be imprisoned except in the common jail of the county, unless otherwise provided by law: Provided, that whenever the sheriff of any county shall be imprisoned, he may be imprisoned in the jail of any adjoining county. If the person being imprisoned is under the age of 18, that person shall be imprisoned in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles, or to a holdover facility as defined in G.S. 7B-1501(11)."

**SECTION 8.(c)** G.S. 15A-521 reads as rewritten:

### **"§ 15A-521. Commitment to detention facility pending trial.**

(a) Commitment. – Every person charged with a crime and held in custody who has not been released pursuant to Article 26 of this Chapter, Bail, must be committed by a written order of the judicial official who conducted the initial appearance as provided in Article 24 to an appropriate detention facility as provided in this section. If the person being committed by written order is under the age of 18, that person must be committed to a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles, or to a holdover facility as defined in G.S. 7B-1501(11). If the person being committed reaches the age of 18 years while held in custody, the person shall be transported by personnel of the Juvenile Justice Section of the

Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the county where the charges arose.

- (b) Order of Commitment; Modification. – The order of commitment must:
- (1) State the name of the person charged or identify him if his name cannot be ascertained.
  - (2) Specify the offense charged.
  - (3) Designate the place of confinement.
  - (4) If release is authorized pursuant to Article 26 of this Chapter, Bail, state the conditions of release. If a separate order stating the conditions has been entered, the commitment may make reference to that order, a copy of which must be attached to the commitment.
  - (5) Subject to the provisions of subdivision (4), direct, as appropriate, that the defendant be:
    - a. Produced before a district court judge pursuant to Article 29 of this Chapter, First Appearance before District Court Judge,
    - b. Produced before a district court judge for a probable cause hearing as provided in Article 30 of this Chapter, Probable-Cause Hearing,
    - c. Produced for trial in the district or superior court, or
    - d. Held for other specified purposes.
  - (6) State the name and office of the judicial official making the order and be signed by ~~him~~ that judicial official.

The order of commitment may be modified or continued by the same or another judicial official by supplemental order.

- (c) Copies and Use of Order, Receipt of Prisoner. –
- (1) The order of commitment must be delivered to a law-enforcement officer, who must deliver the order and the prisoner to the detention facility named therein.
  - (2) The jailer or personnel of the Juvenile Justice Section must receive the prisoner and the order of commitment, and note on the order of commitment the time and date of receipt. As used in this subdivision, "jailer" includes any person having control of a detention ~~facility~~ facility and "personnel of the Juvenile Justice Section" includes personnel approved by the Juvenile Justice Section.
  - (3) Upon releasing the prisoner pursuant to the terms of the order, or upon delivering the prisoner to the court, the jailer or personnel of the Juvenile Justice Section must note the time and date on the order and return it to the clerk. Personnel of the Juvenile Justice Section, or personnel approved by the Juvenile Justice Section, shall transport the person under the age of 18 from the juvenile detention facility or holdover facility to court and shall transfer the person back to the juvenile detention facility or holdover facility.
  - (4) Repealed by Session Laws 1975, 2nd Sess., c. 983, s. 142.

(d) Commitment of Witnesses. – If a court directs detention of a material witness pursuant to G.S. 15A-803, the court must enter an order in the manner provided in this section, except that the order must:

- (1) State the reason for the detention in lieu of the description of the offense charged, and
- (2) Direct that the witness be brought before the appropriate court when his testimony is required."

**SECTION 8.(d)** G.S. 15A-1301 reads as rewritten:

**"§ 15A-1301. Order of commitment to imprisonment when not otherwise specified.**

When a judicial official orders that a defendant be imprisoned he must issue an appropriate written commitment order. When the commitment is to a sentence of imprisonment, the

commitment must include the identification and class of the offense or offenses for which the defendant was convicted and, if the sentences are consecutive, the maximum sentence allowed by law upon conviction of each offense for the punishment range used to impose the sentence for the class of offense and prior record or conviction level, and, if the sentences are concurrent or consolidated, the longest of the maximum sentences allowed by law for the classes of offense and prior record or conviction levels upon conviction of any of the offenses. If the person sentenced to imprisonment is under the age of 18, the person must be committed to a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles. If the person is under the age of 18, the person may be temporarily confined in a holdover facility as defined in G.S. 7B-1501(11) until the person can be transferred to a juvenile detention facility. Personnel of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section shall transport the person to the juvenile detention facility or the holdover facility."

**SECTION 8.(e)** G.S. 15A-1343(a1) reads as rewritten:

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

...

(a1) Community and Intermediate Probation Conditions. – In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

- (1) House arrest with electronic monitoring.
- (2) Perform community service and pay the fee prescribed by law for this supervision.
- (3) Submission to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month. If the person being ordered to a period or periods of confinement is under the age of 18, that person must be confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility.
- (4) Substance abuse assessment, monitoring, or treatment.
- (4a) Abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.
- (5) Participation in an educational or vocational skills development program, including an evidence-based program.
- (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2)."

**SECTION 8.(f)** G.S. 15A-1343.2(e) reads as rewritten:

"(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the

Department of Public Safety may require an offender sentenced to community punishment to do any of the following:

- (1) Perform up to 20 hours of community service, and pay the fee prescribed by law for this supervision.
- (2) Report to the offender's probation officer on a frequency to be determined by the officer.
- (3) Submit to substance abuse assessment, monitoring or treatment.
- (4) Submit to house arrest with electronic monitoring.
- (5) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month. If the person being ordered to a period or periods of confinement is under the age of 18, that person must be confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility.
- (6) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.
- (7) Participate in an educational or vocational skills development program, including an evidence-based program.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (e) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (5) of this subsection may not be imposed unless the Section determines that the offender failed to comply with one or more of the conditions imposed by the court. Nothing in this section shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

The Division shall adopt guidelines and procedures to implement the requirements of this section, which shall include a supervisor's approval prior to exercise of the delegation of authority authorized by this section. Prior to imposing confinement pursuant to subdivision (5) of this subsection, the probationer must first be presented with a violation report, with the alleged violations noted and advised of the right (i) to a hearing before the court on the alleged violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant information concerning the alleged violations; and (iv) to examine any witnesses or

evidence. The probationer may be confined for the period designated on the violation report upon the execution of a waiver of rights signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be the probation officer and another officer to be designated by the Chief of the Community Corrections Section in written Division policy."

**SECTION 8.(g)** G.S. 15A-1343.2(f) reads as rewritten:

"(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may require an offender sentenced to intermediate punishment to do any of the following:

- (1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this supervision.
- (2) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.
- (3) Submit to substance abuse assessment, monitoring or treatment, including continuous alcohol monitoring when abstinence from alcohol consumption has been specified as a term of probation.
- (4) Participate in an educational or vocational skills development program, including an evidence-based program.
- (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).
- (6) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month. If the person being ordered to a period or periods of confinement is under the age of 18, that person must be confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility.
- (7) Submit to house arrest with electronic monitoring.
- (8) Report to the offender's probation officer on a frequency to be determined by the officer.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (f) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions



of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (6) of this subsection may not be imposed unless the Section determines that the offender failed to comply with one or more of the conditions imposed by the court. Nothing in this section shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

The Division shall adopt guidelines and procedures to implement the requirements of this section, which shall include a supervisor's approval prior to exercise of the delegation of authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6) of this subsection, the probationer must first be presented with a violation report, with the alleged violations noted and advised of the right (i) to a hearing before the court on the alleged violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant information concerning the alleged violations; and (iv) to examine any witnesses or evidence. The probationer may be confined for the period designated on the violation report upon the execution of a waiver of rights signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be the probation officer and another officer to be designated by the Chief of the Community Corrections Section in written Division policy."

**SECTION 8.(h)** G.S. 15A-1344(d2) reads as rewritten:

"(d2) Confinement in Response to Violation. – When a defendant under supervision for a felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement of 90 consecutive days to be served in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. The 90-day term of confinement ordered under this subsection for a felony shall not be reduced by credit for time already served in the case. Any such credit shall instead be applied to the suspended sentence. However, if the time remaining on the maximum imposed sentence on a defendant under supervision for a felony conviction is 90 days or less, then the term of confinement is for the remaining period of the sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

When a defendant under supervision for a misdemeanor conviction sentenced pursuant to Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement pursuant to G.S. 15A-1343(a1)(3). If the person being ordered to a period of confinement is under the age of 18, that person must be confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility. The court may not revoke probation unless the defendant has previously received at least two periods of confinement for violating a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a). Those periods of confinement may have been imposed pursuant to G.S. 15A-1343(a1)(3), 15A-1343.2(e)(5), or 15A-1343.2(f)(6). The second period of confinement must have been imposed for a violation that occurred after the defendant served the first period of confinement. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

When a defendant under supervision for a misdemeanor conviction not sentenced pursuant to Article 81B of Chapter 15A of the General Statutes has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement of up to 90 consecutive days to be served where the defendant would have served

an active sentence. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

The period of confinement imposed under this subsection on a defendant who is on probation for multiple offenses shall run concurrently on all cases related to the violation. Confinement shall be immediate unless otherwise specified by the court."

**SECTION 8.(i)** G.S. 15A-1344(e) reads as rewritten:

"(e) Special Probation in Response to Violation. – When a defendant has violated a condition of probation, the court may modify the probation to place the defendant on special probation as provided in this subsection. In placing the defendant on special probation, the court may continue or modify the conditions of probation and in addition require that the defendant submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever time or intervals within the period of probation the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the rules and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in either the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. If the person being ordered to a period or periods of imprisonment, either continuous or noncontinuous, is under the age of 18, that person must be imprisoned in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility.

Except for probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. No confinement other than an activated suspended sentence may be required beyond the period of probation or beyond two years of the time the special probation is imposed, whichever comes first."

**SECTION 8.(j)** G.S. 15A-1351(a) reads as rewritten:

"(a) The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a designated local confinement or treatment facility at whatever time or intervals within the period of probation,

consecutive or nonconsecutive, the court determines, as provided in this subsection. For probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, all imprisonment under this subsection shall be in a designated local confinement or treatment facility. If the person being ordered to a period or periods of imprisonment is under the age of 18, that person must be imprisoned in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. Except for probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, if imprisonment is for continuous periods, the confinement may be in the custody of either the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. If the person being ordered continuous or noncontinuous periods of imprisonment is under the age of 18, that person must be imprisoned in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The original period of probation, including the period of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences."

**SECTION 8.(k)** G.S. 15A-1352 reads as rewritten:

**"§ 15A-1352. Commitment to Division of Adult Correction and Juvenile Justice of the Department of Public Safety or local confinement facility.**

(a) Except as provided in subsection (f) of this section, a person sentenced to imprisonment for a misdemeanor under this Article or for nonpayment of a fine for conviction of a misdemeanor under Article 84 of this Chapter shall be committed for the term designated by the court to the Statewide Misdemeanant Confinement Program as provided in G.S. 148-32.1 or, if the period is for 90 days or less, to a local confinement facility, except as provided for in G.S. 148-32.1(b).

If a person is sentenced to imprisonment for a misdemeanor under this Article or for nonpayment of a fine under Article 84 of this Chapter, the sentencing judge may make a finding of fact as to whether the person would be suitable for placement in a county satellite jail/work release unit operated pursuant to G.S. 153A-230.3. If the sentencing judge makes a finding of fact that the person would be suitable for placement in a county satellite jail/work release unit and the person meets the requirements listed in G.S. 153A-230.3(a)(1), then the custodian of the local confinement facility may transfer the misdemeanant to a county satellite jail/work release unit.

If the person sentenced to imprisonment is under the age of 18, the person must be committed to a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles. Personnel of the Juvenile Justice Section of the Division or personnel approved by the Juvenile Justice Section shall transport the person to the detention facility. If the person sentenced to imprisonment reaches the age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility.

(b) A person sentenced to imprisonment for a felony under this Article or for nonpayment of a fine for conviction of a felony under Article 84 of this Chapter shall be committed for the term designated by the court to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(c) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See Editor's note for applicability.

(d) Notwithstanding any other provision of law, when the sentencing court, with the consent of the person sentenced, orders that a person convicted of a misdemeanor be granted work release, the court may commit the person to a specific prison facility or local confinement facility or satellite jail/work release unit within the county of the sentencing court in order to facilitate the work release arrangement. When appropriate to facilitate the work release arrangement, the sentencing court may, with the consent of the sheriff or board of commissioners, commit the person to a specific local confinement facility or satellite jail/work release unit in another county.

(e) Repealed by Session Laws 2014-100, s. 16C.1(b), effective October 1, 2014. See Editor's note for applicability.

(f) A person sentenced to imprisonment of any duration for impaired driving under G.S. 20-138.1, other than imprisonment required as a condition of special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e), shall be committed to the Statewide Misdemeanant Confinement Program established under G.S. 148-32.1.

If the person sentenced to imprisonment is under the age of 18, the person must be committed to a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice to provide secure confinement and care for juveniles. Personnel of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section shall transport the person to the detention facility. If the person sentenced to imprisonment reaches the age of 18 years while imprisoned, the person may be transported by personnel of the Juvenile Justice Section of the Division, or personnel approved by the Juvenile Justice Section, to the custody of the sheriff of the applicable local confinement facility."

**SECTION 8.(f)** G.S. 148-13 reads as rewritten:

**"§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.**

(a) The Secretary of Public Safety may issue regulations regarding the grades of custody in which State prisoners are kept, the privileges and restrictions applicable to each custody grade, and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or parole. The amount of cash awarded to a prisoner upon discharge or parole after being incarcerated for two years or longer shall be at least forty-five dollars (\$45.00).

(a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions. Such rules shall include any person serving an activated sentence of imprisonment who is confined in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice.

(b) With respect to prisoners who are serving sentences for impaired driving offenses under G.S. 20-138.1, the Secretary of Public Safety may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.

(c), (d) Repealed by Session Laws 1993, c. 538, s. 32, effective January 1, 1995.

(e) The Secretary's regulations concerning earned time and good time credits authorized by this section shall be distributed to and followed by local jail administrators and by personnel of the Juvenile Justice Section or personnel approved by the Juvenile Justice Section with regard to sentenced jail ~~prisoners~~ prisoners, including prisoners housed in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice.

(f) The provisions of this section do not apply to persons sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a)."

**SECTION 8.(m)** G.S. 148-32.1(e) reads as rewritten:

"(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving under G.S. 20-138.1 into a local confinement facility or to a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice pursuant to this section, the custodian of the local confinement facility or detention facility shall forward to the Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall include date of incarceration, jail credit, and such other information as may be required by the Post-Release Supervision and Parole Commission. The Post-Release Supervision and Parole Commission shall approve a form upon which the custodian shall furnish this information, which form will be provided to the custodian by the Division of Adult Correction and Juvenile Justice."

**SECTION 8.(n)** G.S. 153A-218 reads as rewritten:

**"§ 153A-218. County confinement facilities.**

A county may establish, acquire, erect, repair, maintain, and operate local confinement facilities and may for these purposes appropriate funds not otherwise limited as to use by law. Subject to the holdover provisions in G.S. 7B-2204, no person under the age of 18 may be held in a county confinement facility unless there is an agreement between the county confinement facility and the Division of Adult Correction and Juvenile Justice allowing the housing of persons under the age of 18 at the facility or a portion of the facility that has been approved as a juvenile detention facility by the Juvenile Justice Section. A juvenile detention facility may be located in the same facility as a county jail provided that the juvenile detention facility meets the requirements of this Article and G.S. 147-33.40."

**SECTION 8.(o)** G.S. 162-60(b) reads as rewritten:

"(b) A prisoner who is convicted of a misdemeanor offense and housed in a local confinement facility ~~and~~ or a person under the age of 18 convicted of a misdemeanor offense and housed in a detention facility approved by the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice who faithfully participates in an adult high school equivalency diploma program or in any other education, rehabilitation, or training program is entitled to a reduction in the prisoner's sentence of four days for each 30 days of classes attended, up to the maximum credit allowed under G.S. 15A-1340.20(d)."

**SECTION 8.(p)** This section becomes effective August 1, 2020, and applies to offenses committed, sentences imposed, and any other orders of imprisonment issued on or after that date.

**PART III. STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM TRANSFERS FOR MEDICAL TREATMENT**

**SECTION 9.(a)** G.S. 148-19.3 reads as rewritten:

**"§ 148-19.3. Health care services to county prisoners.**

(a) All charges that are the responsibility of the transferring county for health care services provided to prisoners held under a safekeeping order pursuant to ~~G.S. 162-39~~ G.S. 162-39, or the Statewide Misdemeanant Confinement Program pursuant to G.S. 148-32.1, shall not be paid by the Department and shall be submitted by the health care provider to the Inmate Medical Costs Management Plan through the North Carolina Sheriffs' Association for the Plan to review and negotiate all charges for health care services to avoid overpayment and reduce overall health care service costs. The Department shall notify the health care provider when services are being provided to the prisoner that the invoice for health care services shall be submitted by the provider directly to the Plan. In the event an invoice is sent to the Department by a health care provider for health care services provided to a safekeeper under this ~~section~~, section or G.S. 148-32.1, the Department shall forward the invoice to the Plan within three days of receipt. All unreimbursed charges for health care services provided shall be documented and presented to the county for payment in accordance with ~~G.S. 162-39~~. G.S. 162-39 or the Statewide Misdemeanant Confinement Program in accordance with G.S. 148-32.1. Upon expiration of the terms of the order and a determination that the prisoner may be safely returned to the custody of the county, the Department shall notify the sheriff, or the sheriff's designee, by telephone and electronic mail and request the transfer of the prisoner to the custody of the county.

(b) The Department shall update the medical services schedule of charges assessed to counties for the provision of health care services to county prisoners housed in the State prison system pursuant to safekeeping orders under ~~G.S. 162-39~~. G.S. 162-39 or the Statewide Misdemeanant Confinement Program under G.S. 148-32.1. In updating the schedule of charges, at a minimum, the Department shall consider the actual rate for services provided and current established Medicaid rates for respective services. The schedule of charges shall be updated annually and shall be included in the Department's policies and procedures. The Department shall assess charges to counties for health care services provided to county prisoners at all State prison facilities."

**SECTION 9.(b)** G.S. 148-32.1(b3) reads as rewritten:

"(b3) The custodian of a local confinement facility may request a judicial order to transfer a misdemeanant housed pursuant to the Statewide Misdemeanant Confinement Program to a facility operated by the Division of Adult Correction and Juvenile Justice by certifying in writing to the clerk of the superior court in the county in which the local confinement facility is located ~~that~~ that one of the following conditions is met:

- (1) The misdemeanant poses a security risk because the misdemeanant:
  - a. Poses a serious escape ~~risk~~; risk.
  - b. Exhibits violently aggressive behavior that cannot be contained and warrants a higher level of ~~supervision~~; supervision.
  - c. Needs to be protected from other inmates, and the county jail facility cannot provide such ~~protection~~; protection.
  - d. Is a female or a person 18 years of age or younger, and the county jail facility does not have adequate housing for such ~~prisoners~~; prisoners.
  - e. Is in custody at a time when a fire or other catastrophic event has caused the county jail facility to cease or curtail ~~operations~~; operations.
  - f. Otherwise poses an imminent danger to the staff of the county jail facility or to other prisoners in the facility.

- (2) The misdemeanor requires medical or mental health treatment that the county decides can best be provided by the Division of Adult Correction and Juvenile Justice.
- (3) The local confinement facility that would be required to house the prisoner (i) cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, and (ii) no other local confinement facility is available.

Upon receiving such request and certification in writing, any superior or district court judge for the district in which the local confinement facility is located may, after ascertaining that the request meets the criteria set forth in subdivision (1), (2), or (3) of this subsection, order the misdemeanor transferred to a unit of the State prison system designated by the Secretary of Public Safety or the Secretary's authorized representative. Individuals meeting the condition set forth in subdivision (2) of this subsection may be ordered to be transferred for an initial period not to exceed 30 days. The sheriff of the county from which the prisoner is removed shall be responsible for conveying the prisoner to the prison unit where the prisoner is to be held and for returning the prisoner to the jail of the county from which the prisoner was transferred. The officer in charge of the prison unit designated by the Secretary of Public Safety shall receive custody of the prisoner in accordance with the terms of the order. Prior to the conclusion of the 30-day period, the Division of Adult Correction and Juvenile Justice shall conduct an assessment of treatment and venue needs. The assessment shall be conducted by the attending medical or mental health professional and shall assess the medical and mental health needs of the prisoner and make a recommendation on whether the prisoner should remain in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or if the prisoner should be returned to the custody of the county. To extend the order beyond the initial 30-day period, the sheriff shall provide the Division of Adult Correction and Juvenile Justice assessment and any other relevant information to the resident judge or the superior court or any judge holding superior court in the district or any district court judge who shall determine whether to extend the transfer of the prisoner to a unit of the State prison system beyond the initial 30-day period. If the judge determines that the prisoner should remain in the custody of the Division of Adult Correction and Juvenile Justice, the judge shall renew the order and include a date certain for review by the court. Prior to the date of review, the Division shall conduct a reassessment of treatment and venue needs and the sheriff shall provide the reassessment and any other relevant information to the court, as described in this subsection. If the judge determines that the prisoner should not remain in the custody of the Division of Adult Correction and Juvenile Justice, the officer in charge of the prison unit designated by the Secretary of Public Safety shall release custody of the prisoner in accordance with the court order and the instructions of the attending medical or mental health professional. The Division of Adult Correction and Juvenile Justice shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanor, including the care, supervision, and transportation of the misdemeanorant."

**SECTION 9.(c)** This section becomes effective July 1, 2020, and applies to all prisoners transferred on or after that date.

#### **PART IV. INCREASING CRIMINAL COURT APPOINTED COUNSEL FEE AND COURT COSTS FOR SUPPORT OF INDIGENT DEFENSE SERVICES AND CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

##### **INCREASING APPOINTED COUNSEL FEE AND COURT COSTS**

**SECTION 10.1.(a)** G.S. 7A-455.1 reads as rewritten:

**"§ 7A-455.1. Appointment fee in criminal cases.**

(a) In every criminal case in which counsel is appointed at the trial level, the judge shall order the defendant to pay to the clerk of court an appointment fee of ~~sixty dollars (\$60.00)~~ seventy-five dollars (\$75.00). No fee shall be due unless the person is convicted.

(b) The mandatory ~~sixty dollar (\$60.00)~~ seventy-five dollar (\$75.00) fee may not be remitted or revoked by the court and shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation.

(c) Repealed by Session Laws 2005-250 s. 3, effective August 4, 2005.

(d) Inability, failure, or refusal to pay the appointment fee shall not be grounds for denying appointment of counsel, for withdrawal of counsel, or for contempt.

(e) The appointment fee required by this section shall be assessed only once for each attorney appointment, regardless of the number of cases to which the attorney was assigned. An additional appointment fee shall not be assessed if the charges for which an attorney was appointed were reassigned to a different attorney.

(f) Of each appointment fee collected under this section, the sum of ~~fifty-five dollars (\$55.00)~~ seventy dollars (\$70.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology Fund under G.S. 7A-343.2. These fees shall not revert.

(g) The Office of Indigent Defense Services shall adopt rules and develop forms to govern implementation of this section."

**SECTION 10.1.(b)** G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section. No court may waive or remit all or part of any court fines or costs without providing notice and opportunity to be heard by all government entities directly affected. The court shall provide notice to the government entities directly affected of (i) the date and time of the hearing and (ii) the right to be heard and make an objection to the remission or waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be made to the government entities affected by first-class mail to the address provided for receipt of court costs paid pursuant to the order. The costs referenced in this subsection are listed below:

...

(3b) For the services, staffing, and operations of the Criminal Justice Education and Training Standards Commission, the sum of ~~two three dollars (\$2.00)~~ (\$3.00) to be remitted to the Department of Justice.

(3c) For legal representation to indigent defendants and others entitled to counsel under North Carolina law, the sum of two dollars (\$2.00) to be remitted to the Office of Indigent Defense Services.

...."

**SECTION 10.1.(c)** The Office of Indigent Defense Services and the Administrative Office of the Courts shall update all appointed counsel fee application forms in order to provide space for the itemization of time spent on appointed cases.

**SECTION 10.1.(d)** The Office of Indigent Defense Services shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2021, regarding the implementation of rate increases to the Private Assigned Counsel Fund and modifications to appointed counsel fee application forms.

**SECTION 10.1.(e)** Receipts collected as a result of the court cost increase in subsection (a) of this section related to the Criminal Justice Education and Training Standards



Commission are appropriated to the Criminal Justice Education and Training Standards Commission in the 2020-2021 fiscal year and requirements are increased accordingly.

**SECTION 10.1.(f)** Receipts collected as a result of the court cost increase in subsection (a) of this section related to Indigent Defense Services are appropriated to Indigent Defense Services in the 2020-2021 fiscal year and requirements are increased accordingly.

**SECTION 10.1.(g)** Subsections (a) and (b) of this section become effective December 1, 2020, and apply to costs assessed on or after that date. Subsection (c) of this section becomes effective December 1, 2020, and applies to all appointed counsel fee application forms submitted on or after that date. The remainder of this section is effective when it becomes law.

## **PART V. RADIOLOGICAL EMERGENCY PLANNING**

### **FEE DEADLINE AND FEE MINIMUM MODIFICATIONS**

**SECTION 11.1.(a)** G.S. 166A-29 reads as rewritten:

**"§ 166A-29. Emergency planning; charge.**

(a) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Public Safety an annual fee of at least thirty thousand dollars (\$30,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be applied to the costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid ~~no later than July 31 of each year.~~ on a schedule set by the Department of Public Safety. This minimum fee may be increased from time to time as the costs of such planning and implementation increase. Such increases shall be by agreement between the State and the licensees or operators of the fixed nuclear facilities.

(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Public Safety, for the use of the Radiation Protection Section of the Division of ~~Public Health~~ Health Service Regulation of the Department of Health and Human Services, an annual fee of at least thirty-six thousand dollars (\$36,000) ~~(\$36,000)~~, not to exceed the cost of the service provided, for each fixed nuclear facility that is located within this State or that has a Plume Exposure Pathway Emergency Planning Zone any part of which is located within this State. This fee shall be applied only to the costs of planning and implementing emergency response activities as required by the Federal Emergency Management Agency for the operation of nuclear facilities. This fee is to be paid ~~no later than July 31 of each year.~~ on a schedule set by the Department of Public Safety.

...."

**SECTION 11.1.(b)** This section becomes effective July 1, 2020, and applies to fees assessed on or after that date.

## **PART VI. SEX OFFENDER REGISTRY REQUIREMENT REVIEW**

**SECTION 11.5.(a)** Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-208.12B. Registration requirement review.**

(a) When a person is notified by a sheriff that the person may be required to register based on an out-of-state conviction as provided in G.S. 14-208.6(4)(b), or a federal conviction as provided in G.S. 14-208.6(4)(c), that is substantially similar to a North Carolina sexually violent offense, or an offense against a minor, the sheriff shall notify the person of the right to petition the court for a judicial determination of the requirement to register. Notification shall be served on the person and the district attorney, as provided in G.S. 1A-1, Rule 4(j), or delivery by any

other means that the person consented to in writing. The person may petition the court to contest the requirement to register by filing a petition to obtain a judicial determination as to whether the person is required to register under this Article. The judicial review shall be by a superior court judge presiding in the district where the petition is filed. The review under this section is limited to determine whether or not the person's out-of-state or federal conviction is substantially similar to a reportable conviction, as defined in G.S. 14-208.6(4)(a).

(b) The petition shall be filed in the county in which the person resides using a form created by the Administrative Office of the Courts. The petition must be filed with the clerk of court within 30 days of the person's receipt of the notification of the requirement to register from the sheriff. The person filing the petition must serve a copy of the petition on the office of the district attorney and the sheriff in the county where the person resides within three days of filing the petition with the clerk of court. The petition shall be calendared at the next regularly scheduled term of superior court. At the first setting, the petitioner must be advised of the right to have counsel present at the hearing and to the appointment of counsel if the petitioner cannot afford to retain counsel. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services.

(c) At the hearing, the district attorney has the burden to prove by a preponderance of the evidence, that the person's out-of-state or federal conviction is for an offense, which if committed in North Carolina, was substantially similar to a sexually violent offense, or an offense against a minor. The person may present evidence in support of the lack of substantial similarity between the out-of-state or federal conviction, but may not contest the validity of the conviction. The court may review copies of the relevant out-of-state or federal criminal law and compare the elements of the out-of-state or federal offense to those purportedly similar to a North Carolina offense.

(d) After reviewing the petition, receiving any and all evidence presented by the parties at the hearing, considering any arguments of the parties, the presiding superior court judge shall determine whether the out-of-state or federal conviction is substantially similar to a reportable conviction. If the presiding superior court judge determines the out-of-state or federal conviction is substantially similar to a reportable conviction, the judge shall order the person to register as a sex offender pursuant to this Article. If the presiding superior court judge determines the out-of-state or federal conviction is not substantially similar to a reportable conviction, the judge shall indicate in an order that the person is not required to register as a sex offender pursuant to this Article, based on the out-of-state or federal conviction presented in the hearing. The judge shall prepare a written order and shall direct such order be filed with the clerk of court and copied to the district attorney and the sheriff.

(e) A person who properly files a petition in accordance with this provision shall not be required to register with the sheriff until such petition is decided by the court. No person who properly files a petition in accordance with this provision may be charged with failing to register or any other violation applicable to registrants under this Article, while such petition is pending judicial review as provided in this section.

(f) Any person who is notified by the sheriff of the person's requirement to register as a result of an out-of-state or federal conviction and fails to file a petition under this provision within 30 days of receipt of the notification shall be deemed to have waived judicial review of the person's requirement to register.

(g) A person notified of a requirement to register as a result of a conviction for an offense under G.S. 14-208.6(4)(b) or G.S. 14-208.6(4)(c), who willfully (i) does not file a petition under this section and (ii) does not register in accordance with this Article, shall be in violation of G.S. 14-208.11(a)(1) and shall be guilty of a Class F Felony as provided in that section.

(h) This section shall not be used in lieu of the process to terminate the period of registration pursuant to G.S. 14-208.12A.

(i) No sheriff, or employee of a sheriffs' office, district attorney's office, or the North Carolina State Bureau of Investigation shall incur any civil or criminal liability under North Carolina law as the result of the performance of official duties under this Article."

**SECTION 11.5.(b)** G.S. 7A-451 reads as rewritten:

"§ 7A-451. **Scope of entitlement.**

(a) An indigent person is entitled to services of counsel in the following actions and proceedings:

...  
(19) A proceeding involving a review of the sex offender registration requirement as provided in G.S. 14-208.12B.

...."

**SECTION 11.5.(c)** The State Bureau of Investigation, in consultation with the Office of the Attorney General, shall provide each elected District Attorney with a list of the class members subject to the Honorable Judge Terrence W. Boyle's order in Grabarczyk v. Stein, that resides in a county in that District Attorney's district. An elected District Attorney must decide to handle each case, or have the Attorney General handle the case. If requested by an elected District Attorney, the Attorney General shall make preliminary determinations, and represent the State in any proceedings created by this section. Each District Attorney or Attorney General shall review the prior substantially similar determination for every one of the class members. If the District Attorney or Attorney General make a preliminary determination that the individual's out-of-state or federal conviction is substantially similar to a North Carolina offense that would have required registration at the time of offense, they shall notify the person and the sheriff in the county where the individual resides. The District Attorney or Attorney General may petition the court in that county for judicial review of the registration.

**SECTION 11.5.(d)** The Department of Public Safety shall notify any individual registered on August 1, 2020, whose registration is solely based on a substantially similar determination for an out-of-state or federal conviction, of the right to contest the registration requirement and the process provided in G.S. 14-208.12B, as enacted by subsection (a) of this section.

**SECTION 11.5.(e)** This section becomes effective August 1, 2020, and applies to any individual notified of the right to contest required registration as a sex offender on or after that date.

## **PART VII. DECLARATION PUBLICATION**

**SECTION 11.7.** G.S. 166A-19.31(d) reads as rewritten:

"(d) When Prohibitions and Restrictions Take Effect. – All prohibitions and restrictions imposed by declaration pursuant to ordinances adopted under this section shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. ~~For the purpose of requiring compliance, publication~~ Publication shall include at least (i) posting of a signed copy of the declaration conspicuously posted on the Web site of the municipality or county, if the municipality or county has a Web site, and (ii) submittal of notice and a signed copy of the declaration to the Department of Public Safety WebEOC critical incident management system. Publication may also consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any declaration shall be made. This subsection shall not be governed by the provisions of G.S. 1-597."

## **PART VIII. MISCELLANEOUS**

**SECTION 11.8.** If House Bill 635, 2020 Regular Session, becomes law, then Part V of that act is repealed.

**PART IX. GENERAL EFFECTIVE DATE**

**EFFECTIVE DATE**

**SECTION 12.1.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of June, 2020.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 5:37 p.m. this 1<sup>st</sup> day of July, 2020