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1991 Legislation Affecting Criminal Law and Procedure

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This *Memorandum* summarizes acts of the 1991 session of the General Assembly affecting criminal law and procedure. Each new law is referred to by the session laws chapter number of the ratified act and by the number of the original bill that became law—for example, Chapter 37 (S 43). The effective date of each new law is also given. If the act specified the codification of a new section of the General Statutes, the section number stated in the act is used (with the abbreviation G.S.), though the reader should be aware that the codifier of statutes may change that number.

The statutory changes are not reproduced here. A free copy of any bill may be obtained on request from the Printed Bills Office; State Legislative Building; 16 West Jones Street; Raleigh, NC 27601 (telephone: 919-733-5648). Requests should be by bill number rather than by chapter number.

Some of the material in this *Memorandum* is excerpted from chapters by Institute of Government faculty members in a forthcoming publication, *North Carolina Legislation 1991*, which may be ordered from the Institute of Government's publications office at 919-966-4119.

Criminal Law Changes

Dollar amounts triggering different punishments in certain property crimes revised

Chapter 523 (H 180) amends several property crime statutes, with all of the amendments effective for acts committed on or after October 1, 1991.

Chapter 523 amends G.S. 14-107 by making the offense of passing a worthless check in an amount more than $2,000 a Class J felony (three years' maximum imprisonment). Previously, no worthless check offense was classified as a felony. If the amount of the check on which the offense is based is $2,000 or less, the violation is a misdemeanor.

Chapter 523 also modifies check amounts triggering different misdemeanor punishments. If the amount of the check involved in the offense is $100 or less (formerly, $50.00 or less), punishment may not exceed thirty days' imprisonment or a $50.00 fine. If the amount of the check involved is more than $100, punishment may not exceed six months' imprisonment or a $250 fine (formerly, $500). The chapter adds that a sentencing judge must order, as a condition of probation, that a person convicted of a fourth worthless check offense refrain from maintaining a checking account or making or uttering checks for three years.

Chapter 523 raises from $400 to $1,000 the property value threshold at which larceny of goods, receiving stolen goods, or possessing stolen goods, under G.S. 14-72, constitute Class H felonies (maximum imprisonment of ten years) rather than misdemeanors. Chapter 523 changes *only* the dollar value of property that may trigger a felony rather than a misdemeanor charge. The value of the property, however, is but one of several elements provided in G.S. 14-72 which make these property crimes felonious. For example, the fact that a larceny was "from the person" or committed pursuant to burglary or breaking and entering would also make the offense felonious, regardless of whether the property taken was

worth more or less than $1,000. Chapter 523 does not affect the application of these additional factors.

Chapter 523 amends G.S. 14-86.1(a) to provide that when a person uses a vehicle in the commission of any larceny in which the value of the property taken is more than $2,000 (formerly, $400), that vehicle is subject to forfeiture.

Chapter 523 amends G.S. 108A-53(a), dealing with food stamp fraud, by changing the value threshold for differing punishments under the statute. If the amount involved is $2,000 (formerly, $400) or less, it is a general misdemeanor (1) to transfer food stamps or authorization cards to a person not entitled to them or (2) to receive such stamps and cards when not entitled to them. Illegal transfer or receipt of stamps or cards in an amount more than $2,000 is a Class H felony, punishable by imprisonment for up to ten years.

Laws concerning assault on government officials changed

Chapter 525 (H 283) amends two sections of G.S. 14 involving assault on government officials: one part of the act concerns simple assaults and another concerns assaults committed with firearms or other deadly weapons. Both parts apply to assaults on any officer or employee of the state or of any political subdivision of the state, when that officer or employee is discharging or attempting to discharge his or her official duties. The act is effective for offenses committed on or after October 1, 1991.

The chapter amends G.S. 14-33(b) so that a simple assault on an officer or employee, as defined above, is a general misdemeanor. This prohibition against assault on all government employees replaces a list of particular government officials earlier covered by the statute.

The chapter repeals G.S. 14-33(b)(4), concerning assault on a law enforcement or Department of Correction's custodial officer; 14-33(b)(5), concerning assault on an officer of the North Carolina General Court of Justice while engaged in official judicial duties or on account of the performance of official judicial duties; 14-33(b)(6), concerning assault on a school administrator, teacher, or teacher aide; and 14-33(b)(7), concerning assault on a county social services officer or employee. While Chapter 525 includes all of these groups covered in the former version of G.S. 14-33(b), it narrows the statute's application to officers of the North Carolina General Court of Justice: its prohibitions against assault on those officers is now the same as the prohibition against assault on all other state employees. It applies only to assaults occurring during the discharge or attempted discharge of the officer's duties, and it no longer applies to assaults occurring *on account of* the performance of official judicial duties.

Chapter 525 also amends G.S. 14-34.2 so that assault with a firearm or other deadly weapon, against any government officer or employee in the performance of his or her duties, is punishable as a Class I felony (maximum imprisonment of five years). Again, Chapter 525 expands the class of covered government officials; before Chapter 525's effective date of October 1, 1991, this statute applied only to government officers and employees who were law enforcement officers, fire fighters, and emergency medical services personnel. However, Chapter 525 also narrows the class of persons covered by G.S. 14-34.2 by excluding from its provisions fire fighters, private security officers, and emergency medical services personnel who are not officers or employees of the state or any of its political subdivisions.

Chapter 525 contains a savings clause. That is, the prior versions of G.S. 14-33(b) and G.S. 14-34.2 are applicable to prosecution of crimes committed before October 1, 1991, and such prosecutions may continue for those crimes after October 1, 1991.

Charging language and a sample charge for the new G.S. 14-33(b)(8) are as follows:

> Charging language:
> . . . unlawfully and willfully did assault and strike (*name person assaulted*), a government (*choose one*: **officer**; **employee**) of (*name employer or agency*), by (*describe assault*). At the time of the offense the (*choose one*: **officer**; **employee**) was (*choose one or both*: **discharging**; **attempting to discharge**) the following duty of (*choose one*: **his**; **her**) (*choose one*: **office**; **employment**): (*describe duty discharged*).
>
> Sample charge:
> . . . unlawfully and willfully did assault and strike **Barbara Jones**, a government **officer** of **Livingston Police Department**, by **punching her**. At the time of the offense the **officer** was **attempting to discharge** the following duty of **her office: arresting the defendant for impaired driving**.

Charging language and a sample charge for the new G.S. 14-34.2 are as follows:

> Charging language:
> . . . unlawfully, willfully, and feloniously did assault (*name person assaulted*), a government (*choose one*: **officer**; **employee**) of (*name employer or agency*), with a (*describe firearm or other deadly weapon used for the assault*), which is a (*choose one*: **firearm**; **deadly weapon**), by (*describe assault*). At the time of the offense the (*choose one*: **officer**; **employee**) was performing the following duty of (*choose one*: **his**; **her**) (*choose one*: **office**; **employment**): (*describe duty performed*).
>
> Sample charge:
> . . . unlawfully, willfully, and feloniously did assault **Bill Smith**, a government **officer** of **Millburn Police Department**, with a **.25 caliber automatic revolver**, which is a **firearm**, by **shoot-**

ing at him twice. At the time of the offense the **officer** was performing the following duty of **his office: executing a search warrant.**

Possessing drugs in prison or jail made a Class I felony

Chapter 484 (S 762), effective for offenses committed on or after October 1, 1991, amends G.S. 90-95(e) to provide that any person who possesses a controlled substance in a prison or a jail is guilty of a Class I felony (maximum imprisonment of five years). Chapter 484 also provides that a person convicted of this offense must be sentenced to a mandatory minimum prison sentence of not less than two years (which may not be suspended), and the sentence must run consecutively with any sentence already being served.

Drugs added to list of anabolic steroids covered by Schedule III of the Controlled Substances Act

Chapter 413 (H 463), effective July 1, 1991, amends G.S. 90-91(k) by adding twenty-four drugs to the list of anabolic steroids covered as Schedule III controlled substances. Chapter 413 also adds a new category of anabolic steroids to the list: any derivative of a drug or substance listed in G.S. 90-91(k) which promotes muscle growth. To save space, the added substances are not listed here. Chapter 413 also amends G.S. 90-91's definition of anabolic steroid to include any drug or hormonal substance related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth.

New offense of ethnic intimidation

Chapter 493 (H 513) adds, in G.S. 14-401.14, a new misdemeanor offense of ethnic intimidation, punishable by imprisonment for up to two years, or a fine, or both. The chapter is effective for offenses committed on or after October 1, 1991. It provides that a person commits the offense if, because of race, color, religion, nationality, or country of origin, that person assaults another person, or damages or defaces another's property, or threatens to do any such act.

Increase in penalties when misdemeanor offense is motivated by prejudice

Chapter 702 (S 403) amends G.S. 14-3, concerning the punishment of misdemeanors, effective for offenses committed on or after October 1, 1991. The act provides that when a person commits a misdemeanor offense with a prescribed punishment less than the punishment for a general misdemeanor because of the victim's race, color, religion, nationality, or country of origin, the offense is a general misdemeanor. The act further classifies as a Class J felony (maximum imprisonment of three years) an otherwise general misdemeanor offense, if that offense is committed because of the victim's race, color, religion, nationality, or country of origin.

A criminal pleading must allege—and the state must prove at trial—the added element of causation based on prejudice if the more severe punishments described above are to be imposed.

New offense of criminally negligent hunting

Chapter 748 (S 678), effective for acts committed on or after October 1, 1991, adds a new G.S. 113-290, making it unlawful for a person, (1) while hunting, to (2) discharge a firearm, (a) carelessly and heedlessly in wanton disregard for the safety of others or (b) without due caution or circumspection, and in a manner so as to endanger any person or property; (3) with resulting property damage or bodily injury.

Chapter 748 also adds a new G.S. 113-290.1, outlining penalties for criminally negligent hunting as follows:

1. If only property damage results from an offense, the penalty is a fine of not less than $250 but not more than $1,000, or imprisonment not to exceed sixty days, or both. When a person is convicted, the Wildlife Resources Commission must suspend his or her hunting privileges for one year. Additionally, the trial court must order restitution to the property owner.
2. If bodily injury not resulting in disfigurement or total or partial permanent disability of another person occurs, the penalty is a fine of not less than $500 but not more than $2,000, or imprisonment not to exceed two years, or both. A three-year suspension of hunting privileges by the Wildlife Resources Commission is mandatory.
3. If bodily injury results in disfigurement or permanent disability, the penalty is a fine of at least $750 but not more than $2,000, and imprisonment of not less than fifteen days nor more than two years. A five-year suspension of hunting privileges by the Wildlife Resources Commission is mandatory.
4. If death results from an offense, the penalty is a fine of not less than $1,000 nor more than $2,000, and imprisonment for not less than thirty days nor more than two years. A five-year suspension of hunting privileges by the Wildlife Resources Commission is mandatory. The chapter specifically provides that an offense resulting in death is a distinct offense from, and not a lesser included offense of, the crime of involuntary manslaughter.

If property damage accompanies any of the three penalty categories involving bodily injury, the judge must order restitution of that loss by the offender. If an offender was

impaired (that is, under the influence of an impairing substance or having a blood alcohol concentration of .10 or above at any relevant time after the offense), the penalties are elevated as follows: an offense resulting in only property damage is to be penalized as in (2) above; an offense resulting in bodily injury is to be penalized as in (4) above.

Chapter 748 further provides penalties for convictions of hunting or taking wild animals or birds while a person's hunting license is suspended because of a negligent hunting offense. Such a violation is punishable by a fine not less than $500 nor more than $2,000, or imprisonment not to exceed two years, or both. Additionally the offender's hunting privileges are suspended for another five years, and he or she cannot be issued another hunting license until satisfactorily completing a hunter safety course. The chapter provides for its enforcement by Wildlife Resources Commission law enforcement officers, sheriffs, deputy sheriffs, and peace officers with general subject matter jurisdiction.

Hunter's duty to wear blaze orange extended

G.S. 113-291.8(a) requires that a person using a firearm to hunt bear, deer, or wild boar must wear blaze orange. Chapter 71 (H 392) rewrites the subsection to make it applicable to a person using a firearm to hunt (1) game animals other than foxes, bobcats, raccoons, and opossum, or (2) upland game birds other than wild turkeys. Although Chapter 71 was effective July 1, 1991, it provides that for those hunting rabbits, squirrels, grouse, pheasants, and quail, only warning tickets may be issued until October 1, 1992.

Fines increased for violations of marine fisheries and wildlife laws and regulations

Chapter 176 (H 117) and Chapter 761 (H 929), effective for offenses committed on or after January 1, 1992, amend G.S. 113-135(a), concerning punishment for violations of subchapters or rules adopted by Marine Fisheries Commission or Wildlife Resources Commission. The act increases the minimum and maximum fines under the subsection as follows: for a first conviction, the minimum fine is $25.00 (formerly, $10.00) and the maximum fine is $100 (formerly, $50.00); for a subsequent conviction within one year of a previous conviction, the minimum fine is $100 (formerly, $50.00) and the maximum fine is $500 (formerly, $200). The terms of imprisonment are not changed.

Maximum fine for violation of local ordinances increased

G.S. 14-4(a) provides that a violation of a town, city, or county ordinance is a misdemeanor punishable by imprisonment for not more than thirty days or a fine not exceeding $50.00. Chapter 446 (H 682), effective for offenses committed on or after October 1, 1991, raises the authorized maximum fine for such misdemeanors to $500. Unless an ordinance specifies a maximum fine greater than $50.00, however, the maximum will remain at $50.00.

Violations of ordinances of metropolitan sewage districts made misdemeanors

Chapter 415 (H786) also amends G.S. 14-4(a). Effective for offenses committed on or after October 1, 1991, violations of ordinances of metropolitan sewage districts created under G.S. Chapter 162A, Article 5, are punishable as misdemeanors under G.S. 14-4(a) (as amended by Chapter 446 above).

Law prohibiting tobacco sales to minors changed

G.S. 14-313, before amendment by Chapter 628 (H 852), prohibited persons from selling, giving away, or disposing of to minors cigarettes, tobacco in the form of cigarettes, or cut tobacco in any form or shape which may be used or intended to be used as a substitute for cigarettes. Chapter 628, effective for offenses committed on or after October 1, 1991, amends G.S. 14-313 by raising the age of minors under this statute from 17 to 18. The chapter adds cigarette wrapping papers and smokeless tobacco products to those items that may not be sold, given away, or disposed of to minors. Further, it provides that in order for the sale, delivery, or assistance in the delivery of such products to be an offense, the act must be done knowingly. The chapter also adds a definition of smokeless tobacco, which includes chewing tobacco and snuff.

New offense of interference with animal research

Chapter 203 (S 518), effective for offenses committed on or after October 1, 1991, creates a new offense of interference with animal research, punishable as a misdemeanor by a maximum imprisonment of two years, or a fine, or both. However, if the interference involves the release from any enclosure or restraining device of an animal having an infectious disease, then the offense is punishable as a Class J felony (maximum imprisonment of three years).

Willful commission of *any* of the following acts constitutes the misdemeanor offense:

1. Making an unauthorized entry into any research facility where animals are kept within the facility for medical, veterinary, dental, or biological research, with the intent to
   a. disrupt normal operations of the facility,
   b. damage the facility or personal property in the facility,
   c. release any animal from any enclosure or restraining device in the facility, or
   d. interfere with the care of animals kept in the facility

2. Damaging any research facility or personal property kept in such a facility
3. Committing the unauthorized release from any enclosure or restraining device of any animal kept in such a facility
4. Interfering with the care of any animal kept within any research facility

Penalty for possessing weapons on educational property increased

Chapter 622 (S 284) amends G.S. 14-269.2, concerning possession of weapons on educational property, and is effective for offenses committed on or after October 1, 1991. The act provides that a violation of the statute is a general misdemeanor (two years' maximum imprisonment, or a fine, or both). This replaces the previous lesser penalty of a fine of not more than $500, or imprisonment for no longer than six months, or both.

Changes in alcoholic beverage control (ABC) laws

Chapter 459 (S 343), effective July 1, 1991, amended several statutes concerning the regulation of alcoholic beverages. The most important criminal law change was making G.S. 14-90 and G.S. 14-254 applicable to any person appointed or employed by a local ABC board. G.S. 14-90 concerns embezzlement of property received by virtue of office or employment, and G.S. 14-254 concerns malfeasance of corporation officers and agents. The act also provides that violations of G.S. 14-90 and G.S. 14-254 by local ABC board appointees or employees are punishable as Class H felonies (maximum imprisonment of ten years). This punishment is identical to that already provided by G.S. 14-90 for persons who are not ABC workers and who are convicted of embezzlement under that statute. However, the Class H penalty for ABC workers differs from the Class G punishment (maximum imprisonment of fifteen years) already provided for specific malfeasance violations of G.S. 14-254 by other types of officers or agents.

Chapter 459 also amends G.S. 18B-301(b), concerning possession of beverages without an ABC permit on another's property. In the following places a person may now lawfully possess, for personal use and for the use of guests, not more than five (formerly, four) liters of any combination of spirituous liquor and fortified wine:

1. Another's private residence with the resident's consent
2. Any other property—with the consent of its owner or caretaker—which is not primarily used for commercial purposes and not open to the public when the beverage is possessed
3. An establishment with a brown-bagging permit

Littering law revised

Chapter 609 (H 413), effective for acts committed on or after October 1, 1991, amends G.S. 14-399, concerning littering. It provides that littering in an amount equal to or less than fifteen pounds, when not for commercial purposes, is a misdemeanor punishable by a fine of not less than $100 and not more than $500 (the range had formerly been $50.00–$200). Littering in an amount exceeding fifteen pounds but less than five hundred pounds, when not for commercial purposes, is a misdemeanor punishable by a fine of not less than $100 and not more than $1,000 (the range had formerly been $50.00–$500).

Chapter 609 also amends G.S. 7A-148(a) to provide that the offense of littering in an amount equal to or less than fifteen pounds may be included in uniform schedules of offenses for which magistrates and clerks of court may accept written appearances, waivers of trial, and guilty pleas.

False bomb and false bomb report laws changed

G.S. 14-69.1 prohibits the making of false reports of destructive devices, and G.S. 14-69.2 prohibits people from placing, with the intent to perpetrate a hoax, devices which other people may reasonably believe are destructive. Chapter 648 (S 792) amends both G.S 14-69.1 and G.S. 14-69.2, effective for offenses committed on or after October 1, 1991. The act provides that if either prohibited act is made in reference to a hospital facility, which includes health clinics, the offender is guilty of a misdemeanor punishable by a minimum of one hundred hours of mandatory community service. The chapter further provides that a second or subsequent conviction for either offense against a hospital facility is a Class I felony (maximum imprisonment of five years).

Changes in law concerning nondegradable plastic yokes or ring-type holding devices

Chapter 236 (S 773) amends G.S. 14-399.2, which prohibits the sale or distribution of nondegradable plastic yoke or ring-type holding devices. The new act expands the class of permitted plastic yokes to include not only degradable but also recyclable ring-type holders. The class of permitted holders that are recyclable but not degradable is limited to those with openings of 1.75 inches or less [as amended from openings of one and one-half inches or less by Chapter 621 (H 1109)]. Changes are effective October 1, 1991.

Law concerning the burning or destruction of crops changed

Chapter 534 (H 838), effective for offenses committed on or after October 1, 1991, amends G.S. 14-141 by making it unlawful for any person willfully to burn or destroy

another person's lawfully grown crop, pasture, or provender. Before this amendment, the statute listed specific crops protected by the prohibition. Chapter 534 also expands this crime into two classes for punishment, creating a new misdemeanor classification:

1. If damage is $2,000 or less, the offense is a misdemeanor punishable by imprisonment not to exceed two years, or a fine, or both.
2. If damage is more than $2,000, the offense is a Class I felony (maximum imprisonment of five years).

Changes in misdemeanor offenses of promises or threats to obtain political contribution or support

G.S. 126-14 describes the misdemeanor of promise or threat to obtain political contribution or support. It provides that state employees or appointed state officers may not coerce other state employees, including probationary or temporary state employees, in order to gain political contribution or support. Chapter 505 (H 837), effective October 1, 1991, amends G.S. 126-14 by adding that applicants for positions subject to the Personnel Act also may not be coerced. Chapter 505 also defines more specifically the activity constituting a misdemeanor: a state employee or appointed officer may not coerce persons of any of the above employment ranks to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or a political party. Such persons also may not be coerced to change the party designation of their voter registration. The statute covers coercion through discipline as well as through threatened change in employment status or through threatened change in on-the-job treatment.

Chapter 505 makes similar changes in G.S. 126-14.1, which makes unlawful explicit threats to obtain political contribution or support.

Law mandating maximum service fee on events tickets changed

G.S. 14-344, before amendment by Chapter 165 (H 926), provided that a person charging more for an event ticket than its face value plus tax and a maximum $3.00 service fee committed a misdemeanor punishable by a fine not to exceed $500, or imprisonment for no more than six months, or both. Chapter 165 (H 926), effective for acts committed on or after May 29, 1991, amends G.S. 14-344 by providing an exception to the $3.00 service fee limit: a promoter or operator of the property where an event is to be held may agree in writing with a ticket sales agency that a reasonable service fee greater than $3.00 may be imposed for the first sale of tickets by the agency.

Offense of tampering with examinations mandated by law changed

G.S. 14-401.1 makes it a misdemeanor to tamper with examinations, such as occupational licensing exams, that are provided and prepared by law. Chapter 360 (S 385), effective for acts committed on or after June 24, 1991, amends G.S. 14-401.1. The new act provides that any person who, without authority of the entity who prepares or administers the examination, obtains, takes, or tampers with such an examination or its questions is guilty of a misdemeanor. Chapter 360 removes a provision that such tampering is an offense only if it occurs before the date of the examination for which the material in question was prepared. The chapter also removes specific provisions for penalty of the offense, making it a general misdemeanor and therefore punishable by imprisonment for up to two years, or a fine, or both.

Criminal Procedure and Sentencing

Changes for grand juries that investigate drug-trafficking

In 1986 the General Assembly authorized the use of an investigative grand jury to investigate drug trafficking offenses. Unlike in grand jury proceedings involving other crimes, in a procedure investigating drug trafficking a prosecutor is present in the grand jury room, examines witnesses, and—if witnesses refuse to testify—may grant immunity from prosecution in exchange for testimony (subject to contempt and a jail sentence if witnesses thereafter refuse to testify). Also a court reporter is present to record the testimony.

Chapter 686 (S 716), effective July 13, 1991, makes various changes to the law affecting this investigative grand jury. First, it removes the law's October 1, 1991, expiration date, thereby making the law permanent. Second, the act permits the grand jury to be convened either from an existing grand jury or as an additional grand jury, and provides that the terms of its jurors are twelve months. Third, the act permits grand jury testimony to be used at trial when it is relevant and otherwise admissible, thereby removing the previous limitation that allowed its use only for impeachment or corroboration. Fourth, the act provides that a superior court judge must hear *in camera* (that is, not in open court) any matter concerning the grand jury if necessary to prevent disclosure of its existence, and it requires the court reporter to record and to transcribe the hearing.

Insanity acquittee has burden of proving release from involuntary commitment

Chapter 37 (S 43), effective April 16, 1991, makes significant changes in the involuntary commitment of those criminal defendants who are found not guilty by

reason of insanity. First, the act requires that insanity acquittees must automatically be committed to a mental health facility for up to 50 days before a hearing must be held to determine whether they should be committed for an additional period. Second, unlike in hearings for all others who are involuntarily committed—when the state has the burden of proving by clear and convincing evidence the need for commitment—insanity acquittees have the burden of proving by a preponderance of evidence that they are no longer dangerous to others. If that burden is met, acquittees are still not entitled to release unless they also prove by a preponderance of evidence that (1) they do not have a mental illness or (2) confinement is not necessary either to ensure their own survival or safety or to alleviate or cure their illness. If acquittees do not satisfy these burdens of proof, the court must order commitment for a maximum of 90 days at the first hearing and up to 180 days at the second hearing. Commitments thereafter are for maximum periods of one year, with annual hearings to determine continued commitment.

Another significant difference in commitment hearings for insanity acquittees is that they are held by a judge in the trial division in which the criminal trial occurred. For example, if a defendant is tried for a felony and found not guilty by reason of insanity, a superior court judge must hold the involuntary commitment hearings. Currently there are about fourteen people in state psychiatric hospitals who have been involuntarily committed after having been found not guilty by reason of insanity. For those fourteen the new law takes effect for their future hearings.

Authority to take voluntary dismissal for deferred prosecution

Chapter 109 (S 763), effective May 23, 1991, makes clear that a prosecutor may take a voluntary dismissal for a criminal charge that had been subject to deferred prosecution.

Withdrawal of appeal for trial de novo

A misdemeanor or infraction is ordinarily first tried in criminal district court. A person who is found guilty or responsible may then appeal for a jury trial in superior court. G.S. 15A-1431(g) provides that a person may automatically withdraw such an appeal before the prosecutor has calendared the case for trial in superior court; then the case is remanded to district court for compliance with its judgment. Chapter 63 (H 224), effective for offenses occurring on or after October 1, 1991, adds new subdivision (h) to G.S. 15A-1431 to provide that a person may withdraw an appeal after the prosecutor has scheduled the case for trial in superior court, but only with the judge's consent, and the person must pay court costs associated with superior court (unless remitted by the judge) when the case is remanded to district court for compliance with its judgment.

Expunction of criminal charge that is dismissed or results in not-guilty verdict

Before the enactment of Chapter 326 (S 744), effective June 19, 1991, G.S. 15A-146(a) provided that when a felony or misdemeanor charge was dismissed or when a "not guilty" verdict was entered, a person could, if he or she met certain conditions, apply to a court to expunge the arrest and court records concerning that charge. The conditions were that the person had not previously received an expungement and had not previously been convicted of a felony or a nontraffic misdemeanor. Chapter 326 deletes the provision that prohibited an expungement if a person had a prior conviction for a nontraffic misdemeanor.

Restoration of North Carolina citizenship authorized for out-of-state conviction

A North Carolinian convicted of a felony loses certain state citizenship rights, like the right to vote. Chapter 13 of the General Statutes provides for the automatic restoration of citizenship based on certain events that occur after conviction of a felony in North Carolina or federal courts—for example, the unconditional discharge of an inmate by the prison system. However, it does not provide a procedure for restoration of rights when a North Carolinian is convicted of a felony in another state. Chapter 274 (H 421), effective June 12, 1991, rectifies this problem by providing for such restoration of North Carolina citizenship rights. The restoration occurs under the same circumstances (for example, unconditional discharge of an inmate by the prison system) as for those convicted of felonies in North Carolina or federal courts.

Securities law prosecution and enforcement changes

Chapter 456 (S 245), effective October 1, 1991, authorizes a district attorney to request assistance from the office of the secretary of state to prosecute or to assist in prosecuting criminal violations of the Securities Act and Investment Advisers Act. Chapter 456 also permits the secretary of state to appoint Security Division employees as securities law enforcement agents who may serve and execute notices, orders, or demands issued by the secretary for surrender of securities registrations or concerning any administrative proceeding. The agents have the authority of law enforcement officers when carrying out these functions.

Authority to make warrantless arrests expanded for misdemeanor domestic violence crimes

Chapter 150 (S 52), effective October 1, 1991, expands a law enforcement officer's authority to make a

warrantless arrest for certain domestic violence crimes. An officer, under G.S. 15A-401, is authorized to make a warrantless arrest for any misdemeanor committed in the officer's presence—that is, when the officer sees or hears the misdemeanor being committed.

However, an officer may make a warrantless arrest for a misdemeanor not committed in the officer's presence only if the suspect, if not immediately arrested, would not be apprehended, or might cause physical injury to the suspect or others, or might cause damage to property. The legislature had previously modified the statute by permitting a warrantless arrest for shoplifting, even if it was committed outside the officer's presence and if the conditions described in the previous sentence did not exist. Chapter 150 does the same for domestic criminal trespass and for the following offenses, if they are committed by a person who is the spouse or former spouse of the alleged victim or by a person with whom the alleged victim is living or has lived as if married: simple assault, simple assault and battery, simple affray, assault inflicting or attempting to inflict serious injury, assault with a deadly weapon, and assault on a female by a male person who is at least eighteen years old.

State Bureau of Investigation given additional enforcement authority

Chapter 593 (H 597), effective October 1, 1991, provides that if the county social services director's initial investigation of a report of abuse in a day-care facility reveals that sexual abuse may have occurred, the director must notify the State Bureau of Investigation (SBI) of the results of the initial investigation within twenty-four hours or on the next working day. The chapter authorizes the SBI to send a task force to conduct an investigation.

Chapter 725 (S 451), effective October 1, 1991, authorizes the SBI, on the request of the governor or attorney general, to investigate various environmental crimes in G.S. 14-284.2, G.S. 130A-26.1, G.S. 143-215.6B, G.S. 143-215.88B, and G.S. 143-215.114B. It grants similarly conditional authority for the SBI to investigate felony littering [G.S. 14-399(e)]. Another amendment in Chapter 725, however, gives the SBI enforcement authority over felony or misdemeanor littering without a request from the governor or attorney general.

Wildlife law enforcement officers given additional enforcement authority

Wildlife law enforcement officers have had authority to enforce all felonies but not all misdemeanors. They therefore may sometimes have observed misdemeanors being committed but not been able to act as law enforcement officers. Chapter 730 (S 670), effective October 1, 1991, remedies this problem. It provides that an officer may exercise law enforcement authority (1) when the officer has probable cause to believe that a person has committed a criminal offense in the officer's presence when the officer is engaged in enforcing laws otherwise within his or her jurisdiction or (2) when the officer is asked to provide temporary assistance by the head of a state or local law enforcement agency or his or her designee, and the agency has subject matter jurisdiction.

Federal law enforcement officers authorized to make arrests for some state crimes

Chapter 262 (H 976), effective June 11, 1991, authorizes specified federal law enforcement officers to enforce North Carolina criminal laws if the federal officer (1) is asked by the head of a state or local law enforcement agency, or his or her designee, to provide temporary assistance and the request is within that agency's territorial and subject matter jurisdiction or (2) is asked by a state or local law enforcement officer to provide temporary assistance when the officer is acting within the officer's territorial and subject matter jurisdiction.

Aggravating sentencing factor for ethnic intimidation

Chapter 702 (S 403), effective for offenses committed on or after October 1, 1991, adds as an aggravating sentencing factor that the "offense for which the defendant stands convicted was committed against the victim because of the victim's race, color, religion, nationality, or country of origin." Chapter 493 (H 513), effective for offenses committed on or after October 1, 1991, adds as an aggravating sentencing factor that the "offense was committed because of the race, color, religion, nationality, or country of origin of another person." Although both chapters added the same new aggravating factor "q." to G.S. 15A-1340.4(a)(1), both will be codified (with one of them designated "r."), since they cover potentially different kinds of improper conduct.

Mandatory prison term for communicable disease violation

A person with a communicable disease who violates a legally mandated control measure, such as a mandated restriction on sexual conduct, commits a misdemeanor punishable by a fine and by imprisonment of up to two years. If such a person is convicted and sentenced to prison, Chapter 187 (S 356), effective for offenses committed on or after October 1, 1991, prohibits the person's release from prison unless and until a district court judge determines that release would not create a danger to the public health.

Victims' Compensation Act made permanent

Chapter 301 (H 534) makes permanent the Victims' Compensation Act, contained in Chapter 15B of the

General Statutes, which compensates victims of crimes. The act otherwise would have expired on July 1, 1993.

Notification of parole consideration for serious crimes

Chapter 288 (H 442), effective October 1, 1991, requires that the Parole Commission notify certain persons thirty days in advance of considering parole for certain offenders. First, if the commission intends to consider paroling a prisoner sentenced under the Fair Sentencing Act (FSA) for second-degree murder, assault with a deadly weapon with intent to kill inflicting serious injury, assault with a deadly weapon inflicting serious injury, or assault with a deadly weapon with intent to kill, it must give thirty days' advance notice of parole consideration to the prisoner; the district attorney of the district where the prisoner was convicted; and, if they have made a written request, the head of the law enforcement agency that arrested the prisoner and the members of the victim's immediate family.

Second, if the commission intends to consider paroling a prisoner who has been sentenced under either the pre-FSA sentencing laws or the FSA for first-degree murder, first-degree rape, or first-degree sexual offense, or under the FSA to life imprisonment for second-degree murder, it must give thirty days' advance notice of parole consideration to the prisoner; the district attorney of the district where the prisoner was convicted; and, if they have made a written request to be notified, the head of the law enforcement agency that arrested the prisoner, the members of the victim's immediate family, and (if the offense was first-degree rape or first-degree sexual offense) the victim of the offense. In this second situation, the commission must consider any information provided by notified parties before considering parole. Also in this second situation, the commission must notify the following persons of its decision on parole within ten days of that decision: the district attorney of the district where the prisoner was convicted; and, if they have made a written request, the head of the law enforcement agency that arrested the prisoner, the members of the victim's immediate family, and the victim of the offense.

Chapter 288 also removes misdemeanants from the coverage of G.S. 15A-1371(b). As amended by Chapter 288, G.S. 15A-1371(b) now applies only to pre-FSA felons who have maximum terms of eighteen months or more and felons serving life sentences under the FSA; formerly, it also applied to misdemeanants with terms of eighteen months or more. G.S. 15A-1371(b) requires that parole be considered (1) within ninety days of the prisoner's eligibility for parole if he is ineligible for parole until he has served more than a year, or (2) within ninety days of expiration of the first year of the sentence if the prisoner is eligible for parole at any time. The subsection also requires advance notification of the local district attorney before parole consideration under certain circumstances, as well as written notice to the prisoner of its decision on his parole.

Various parole changes

Chapter 217 (S 415), effective June 5, 1991, does the following:

1. Amends G.S. 15A-1373(d)(1) to require that parolees, if their parole is revoked, be given day-for-day credit against the unserved part of their sentences, except for the last six months, for time spent on parole in compliance with parole conditions
2. Amends G.S. 15A-1371(h) and 15A-1380.2(h) to authorize the Parole Commission to set the hours of community service parole from zero hours up to thirty-two hours per month of active sentence remaining
3. Removes the sunset provision on legislation setting maximum limits on prison population (commonly known as "prison cap" legislation)

Commitment to satellite jail/work release unit authorized

Chapter 486 (S 934), effective July 2, 1991, amends G.S. 15A-1353(d) to authorize a judge, with the consent of a defendant, to commit the defendant to a specific satellite jail/work release unit. It also amends G.S. 15A-1340.2(2) with the apparent intent to make clear that G.S. 15A-1355(c) requires that credit for good behavior be granted for service of a term in a satellite jail/work release unit as well as for a term in a regular jail or prison.

Safekeepers need not be separated from convicted prisoners when in medical or mental health unit

Chapter 535 (H 1044), effective July 3, 1991, amends G.S. 162-39 to permit safekeepers (those prisoners transferred for various reasons from county facilities to the Department of Correction) to be kept with convicted prisoners when they are admitted for necessary services to an inpatient medical or mental health unit.

Require parolee to continue education

Chapter 54 (H 208), effective April 25, 1991, amends G.S. 15A-1374(b) to authorize as a condition of parole the requirement that a parolee who was attending a basic skills program during incarceration must continue attending such a program in pursuit of a general education development degree or adult high school diploma.

Commercial Driver's License Law Changes

Chapter 726 (S 472) makes several changes to the commercial driver's license law enacted last year. Most are

technical or stylistic, or else they deal solely with the licensing duties of the Division of Motor Vehicles (DMV). However, there are a few changes of interest to criminal justice officials.

Classes of licenses

The act establishes two kinds of licenses: regular and commercial. Each kind has a Class A, a Class B, and a Class C category. The act makes some changes in the kinds of vehicles that can be lawfully driven by the holder of each class of license.

The *Class A commercial license* is the broadest one; it authorizes the driving of all vehicles except certain special vehicles that require endorsements in addition to a license. Combination vehicles that have a gross vehicle weight of 26,001 or more pounds and a towed unit of at least 10,001 pounds can be driven only by a Class A commercial license holder.

The *Class B commercial license* authorizes the driving of all vehicles except those that can only be driven with a Class A commercial license. Single vehicles that weigh 26,001 or more pounds or combination vehicles that weigh 26,001 or more pounds, but in which the towed unit weighs less than 10,001 pounds, can be driven only by the holder of a Class A or Class B commercial license.

The *Class C commercial license* authorizes the driving of all commercial vehicles not excluded by statute or that do not require a Class A or a Class B commercial license. The two kinds of vehicles most likely to fall in these categories are vehicles (1) that do not weigh 26,001 or more pounds that are designed to carry sixteen or more passengers or (2) that are transporting hazardous material and are required by federal law to be placarded.

The *Class A regular license* authorizes the driving of any combination vehicle weighing at least 26,001 pounds that has a towed unit of at least 10,001 pounds and is exempt from the commercial licensing requirement (vehicles used by military, for personal use, fire fighting and emergency equipment, and certain farm equipment), as well as combination vehicles weighing less than 26,001 pounds that include a towed unit of 10,001 pounds or more.

The *Class B regular license* authorizes the driving of any vehicle or combination vehicle that would normally require a Class B commercial license, but which is exempted by statute (military, farm, etc.).

The *Class C regular license* authorizes the driving of any vehicle not covered by the above classes, such as all automobiles and single, non-passenger vehicles weighing less than 26,001 pounds. This license also authorizes the driving of fire or emergency medical services (EMS) vehicles, regardless of their weight, when driven by a volunteer member of a fire department, rescue squad, or EMS organization.

Criminal offenses

The original commercial driver's license statute contained two different versions of the criminal offense of driving while license disqualified, and two versions as well as of possessing two licenses at the same time. [Disqualification means that the person may not legally drive a commercial vehicle, but may drive a noncommercial vehicle if the person's license is not otherwise revoked; see G.S. 20-4.01(5a) and 20-17.5.] In each case, one version contained significantly greater punishment and/or consequences on a person's license to drive.

Chapter 726 consolidates these two criminal offenses into a single statute and chooses in each case the version with the greater punishment. The offense of driving while license disqualified is now codified only in G.S. 20-28(d). For anyone convicted of the offense, the new statute carries an additional disqualification period based on the person's record. G.S. 20-30(8) prohibits the possession of any license in addition to a commercial license, and authorizes the seizure of all but the most recent commercial license by a law enforcement officer or judicial official. Violation of the act carries a maximum penalty of six months' imprisonment. In the version repealed by Chapter 726, the offense was an infraction.

Revocation changes

Chapter 726 also makes some clarifying changes in the manner in which driver's license sanctions are imposed for violations committed by a driver while driving a commercial vehicle. First, the act specifies that such a person who is convicted of an offense requiring disqualification must, upon conviction, surrender to the court or the Division of Motor Vehicles any commercial license or any Class A or Class B regular license. The person may, however, keep a Class C regular license or may apply for one if he or she does not have one. For a person whose license is revoked only, or whose license is revoked and is also subject to a disqualification order, any license in the person's possession must be surrendered.

If a driver of a commercial vehicle is convicted of an offense that requires both revocation and disqualification, he or she may be granted a limited privilege to drive a noncommercial vehicle to the same extent that he or she could have been granted one if the offense had occurred in a noncommercial vehicle.

Under current law, a conviction of impaired driving in a commercial vehicle [G.S. 20-138.2] carries a disqualification but not a revocation of the defendant's license. Chapter 726, however, amends G.S. 20-17 to require the Division of Motor Vehicles to revoke the license of a person convicted under G.S. 20-138.2 in three instances: (1) when the person did not take a chemical test, (2) when the person's alcohol concentration was 0.10 or higher, or (3) when the person's alcohol concentration was below 0.04.

Special findings in criminal judgments

In several instances, license sanctions are imposed only for convictions in which factual information (see below) is present that is not an element of the offense or that cannot be determined solely from the offense for which the defendant was convicted. They include convictions of (1) homicides in which impaired driving was involved; (2) impaired driving under G.S. 20-138.1 or hit-and-run under G.S. 20-166, in which a commercial vehicle was involved; (3) certain felony drug offenses in which a commercial vehicle was used; and (4) a felony in which a commercial vehicle was transporting hazardous materials. These are facts that may be proved or admitted at trial, and which may be indicated on the charging documents, but that are not elements of the offense which the judge must find or the defendant must admit before a conviction may be obtained. Chapter 726 amends G.S. 20-24 to require in each case that the "judgment must indicate" the relevant "finding." How this finding must be included in the judgment is not set out in the statute. This new requirement changes the current practice; now such information must be included in the report the court sends to DMV, but the information is not necessarily included as a finding in the judgment. Similar determinations are required in G.S. 18B-302(g)(3), but that statute does not require that the judgment contain a finding.

Gross vehicle weight rating definition

The definition of Gross Vehicle Weight Rating (GVWR) is important because GVWR is used to define commercial vehicles. Chapter 726 amends that definition to delete the option of proving GVWR by using the registered gross weight of the vehicle, leaving the manufacturer's specified maximum loaded weight as the sole measure of GVWR.

Effective date

Chapter 726 is effective October 1, 1991. It has no direction as to the extent to which it applies to pending criminal cases or license sanctions.

Motor Vehicle Law Changes

Ten-day DWI license revocation fee increased and breath testing procedure changed

Chapter 689 (H 83), effective for revocation orders under G.S. 20-16.5 (ten-day license revocation for refusing test or having 0.10 or more alcohol concentration in impaired driving cases) issued on or after August 1, 1991, increases from $25.00 to $50.00 the cost to obtain the return of one's drivers license. Chapter 689 also requires that 50 percent of the total costs collected are to be used to fund a statewide chemical alcohol testing program, to be administered by the Injury Control Section of the Department of Environment, Health, and Natural Resources. It also amends G.S. 20-139.1(b1), effective January 1, 1993 (note carefully the year—1993—of this effective date), to authorize an arresting or charging officer to perform a chemical analysis of breath if the officer (1) possesses a current permit for that type of chemical analysis, and (2) performs the chemical analysis by using an automated instrument that prints out the results of the analysis.

Arresting or charging officer who is qualified to give breath test may give rights notification for blood test

Chapter 689 (H 83), effective July 13, 1991, amends G.S. 20-16.2(a) to authorize a charging or arresting officer who is authorized to administer a chemical analysis of a person's breath, if the charging officer designates a chemical analysis of the defendant's blood, to give the defendant the oral and written notice of rights required by the subsection.

Stopping for school bus with flashing red stoplights required

Chapter 290 (H 861), effective for offenses committed on or after October 1, 1991, amends G.S. 20-217(a) to require vehicles to stop for a school bus flashing red stoplights. Before Chapter 290, stopping was required only when a school bus displayed its mechanical stop signal (this requirement remains in the subsection).

Use of blue light prohibited except by law enforcement

Chapter 263 (S 23), effective for offenses committed on or after October 1, 1991, amends G.S. 20-130.1(c) to prohibit any person from installing, activating, or operating a blue light in or on any vehicle. The current statutory prohibition on possessing a blue light and the current statutory exemption for using a blue light for law enforcement purposes are retained.

Law requiring lights on when windshield wipers on is made permanent

Chapter 18 (S 119) makes permanent (by deleting the provision that would have made the statute expire on June 30, 1991) G.S. 20-129(a), which requires that headlights must be on when windshield wipers are being used for rain, sleet, snow, etc. Only warning tickets may be given for violations until December 31, 1991. Thereafter a violation is an infraction with a penalty of five dollars, and court costs may not be assessed.

Seat belt not required for newspaper delivery person

Chapter 448 (H 884), effective June 28, 1991, amends G.S. 20-135.2A(c)(2) to exempt from the mandatory seat

belt law a motor vehicle operated by a newspaper delivery person while delivering newspapers along a specified route.

Motor vehicle violation and conviction must occur during period of license suspension to prohibit early restoration of license

Both G.S. 20-28 and G.S. 20-28.1 permit drivers whose licenses have been revoked under those sections to apply for early restoration of their licenses if they have not been convicted of a moving motor vehicle offense, alcohol beverage offense, or drug offense. Chapter 726 (S 472), effective October 1, 1991, provides that violations that result in these convictions will prohibit the early restoration of a license only if they have occurred during the revocation period. [Note: Chapter 509 (H 987) made similar changes, but its provisions are superseded by Chapter 726.]

No additional period of suspension of driver's license when convicted of violating G.S. 20-28(a1)

Chapter 682 (S 384), effective July 13, 1991, amends G.S. 20-28.1 to prohibit an additional period of suspension of a driver's license for a person who is convicted of violating G.S. 20-28(a1) (driving while license was revoked under G.S. 20-16.5, for an impaired driving offense, if the driving occurred a specified time after the revocation order).

Definition of "conviction" for G.S. Chapter 20 recodified

Chapter 726 (S 472), effective October 1, 1991, recodifies without substantive change the definition of "conviction" for Chapter 20 of the General Statutes from G.S. 20-24(c) to G.S. 20-4.01(4a). It also repeals definitions of "conviction" in G.S. 20-179(q) and 20-279.1(2), which are unnecessary since the definition in G.S. 20-4.01(4a) applies to all of Chapter 20.

No insurance points or premium surcharge for certain speeding violations

Chapter 101 (H 300), effective for offenses committed on or after January 1, 1992, amends G.S. 58-36-75(f) to delete the exclusion of a speeding violation in excess of 65 mph from the subsection, which under certain circumstances prohibits assessment of insurance points or premium surcharge for a conviction of speeding 10 mph or less over the speed limit. The effect is that the subsection's provisions will now apply to a violation of speeding 75 mph or less in a 65 mph zone.

No insurance points, premium surcharge, or increase in premium by cession of policy to Reinsurance Facility for certain minor accidents

Chapter 713 (S 39), effective for at-fault accidents occurring on or after January 1, 1992, amends G.S. 58-36-75 to prohibit assessment of insurance points, premium surcharge, or increase in premium by cession to the Reinsurance Facility when all of the four following conditions are met:

1. The insured is at fault in a "minor accident" (an accident with property damage only and $1,000 or less in damages).
2. The insured is not convicted of a moving traffic violation in connection with the accident.
3. The vehicle owner, principal operator, or any licensed operator in the owner's household did not have one or more moving traffic convictions or one or more at-fault accidents during the three-year period before the date of the application for a policy or renewal of a policy.
4. The insured has been covered with liability insurance with the same company or company group continuously for at least six months immediately preceding the accident (there are some exceptions to this provision).

Miscellaneous

Criminal court costs increased

Chapter 742 (H 1287), effective for all cases pending or begun on or after July 16, 1991, increases criminal court costs from $51.00 to $55.00 in district court and from $76.00 to $80.00 in superior court.

Jurisdiction of magistrates and clerks for worthless checks of $2,000 or less

Chapter 520 (S 664), effective for offenses committed on or after October 1, 1991, amends G.S. 7A-180(8), G.S. 7A-273(6), and G.S. 7A-273(8) to permit: (1) magistrates and clerks to accept pleas of guilty and waiver of trials for worthless checks of $2,000 or less (formerly, $1,000 or less) and (2) magistrates to hear and enter judgment in such cases as directed by their chief district court judge.

Bad check fee increased from $15.00 to $20.00

Chapter 455 (S 198), applicable to checks written on or after October 1, 1991, amends G.S. 25-3-512 to increase from $15.00 to $20.00 the processing fee that businesses may charge for each bad check they receive.

State park and recreation area rule offenses subject to schedule of waivable offenses

Chapter 151 (S 130), effective for offenses committed on or after January 1, 1992, amends G.S. 7A-148(a) to authorize the annual conference of chief district court judges to adopt a uniform schedule of state park and recreation area rule offenses under G.S. Chapter 113. Thus magistrates and

clerks may accept written pleas of guilty to those offenses and waiver of trials.

Magistrates authorized to issue transportation orders for involuntarily committed persons

G.S. 122C-206 allows the transfer of involuntarily committed persons from one hospital to another. The hospital in which the person is being held must get the permission of the receiving hospital before transfer. If the hospital cannot provide transportation, it may seek a court order requiring a law enforcement officer to transport the patient. Previously a court clerk had to sign the order, which presented problems for hospitals when patients needed to be transferred at night or during the weekend. Chapter 704 (S 470), effective October 1, 1991, also allows magistrates to issue such an order.

Department of Justice may conduct criminal record check of school employee on request

Chapter 705 (S 766), effective July 15, 1991, provides that the Department of Justice may provide a criminal record check to public or private schools of an employee or applicant for employment if the employee or applicant consents to the record check. The department must charge a reasonable fee for conducting the check.

Release order for juvenile to name those to whom juvenile is to be released

Chapter 352 (H 1118), effective for pretrial release orders issued on or after October 1, 1991, amends G.S. 7A-611, concerning pretrial release for a juvenile whose case has been transferred to the superior court for trial as an adult. The new act requires that a pretrial release order must name the person(s) to whom the juvenile may be released.

Dispositional alternatives for delinquent juveniles modified

Chapter 353 (H 1119), effective for dispositions ordered on or after October 1, 1991, rewrites G.S. 7A-649(7) to provide that intermittent confinement in an approved detention facility must be limited to no more than five twenty-four-hour periods as determined by the judge. Confinement must be completed within ninety days from the date of the disposition. [Before Chapter 353, confinement was limited either to night custody for no more than a total of five nights or to weekend custody for no more than a total of two weekends; confinement was to be completed within sixty days of disposition.]

Commitment orders for juveniles must contain detailed findings

Chapter 434 (H 605), effective for commitments ordered on or after October 1, 1991, amends G.S. 7A-651 to require that an order that commits a juvenile to the Division of Youth Services must set out detailed findings that support commitment as the least restrictive alternative. It also must state that all alternatives to commitment prescribed in G.S. 7A-647, G.S. 7A-648, and G.S. 7A-649 have been attempted unsuccessfully or were considered and found to be inappropriate; and that the juvenile's behavior threatens people or property in the community. The findings must be supported by substantial evidence in the record that the judge determined the juvenile's needs, the appropriate community resources required to meet those needs, and explored and exhausted or considered inappropriate those resources before committing the juvenile. Chapter 434 also makes a similar change to G.S. 7A-652(a), concerning committing a delinquent juvenile.

Location of sheriff's sale of unclaimed property changed

Chapter 531 (H 662), effective July 3, 1991, amends G.S. 15-13 to permit a sheriff to conduct a public sale of unclaimed property at the county's law enforcement headquarters. The law had previously required the sheriff to conduct the sale at the county's courthouse.

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