

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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**SENATE BILL 300
Judiciary Committee Substitute Adopted 5/5/21
Judiciary Committee Substitute Adopted 5/11/21**

Short Title: Criminal Justice Reform.

(Public)

Sponsors:

Referred to:

March 16, 2021

A BILL TO BE ENTITLED

AN ACT TO INCREASE PROTECTIONS, TRAINING, AND OVERSIGHT FOR STATE AND LOCAL LAW ENFORCEMENT OFFICERS; TO CREATE A DECERTIFICATION DATABASE; TO REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION SYSTEM AND RAP BACK SERVICE FOR LAW ENFORCEMENT; TO REQUIRE REPORTING RELATED TO GIGLIO MATERIAL; TO EXPAND TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS; TO STANDARDIZE LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS AND ONGOING REQUIREMENTS; TO REQUIRE PSYCHOLOGICAL SCREENINGS OF LAW ENFORCEMENT OFFICERS PRIOR TO CERTIFICATION OR EMPLOYMENT; TO EDUCATE LAW ENFORCEMENT OFFICERS ON MAINTAINING GOOD MENTAL HEALTH, AND TO PROVIDE INFORMATION TO LAW ENFORCEMENT OFFICERS ON MENTAL HEALTH RESOURCES AVAILABLE; TO CREATE A PHYSICAL FITNESS STUDY; TO EXPAND THE ADMINISTRATIVE OFFICE OF THE COURTS' COURT DATE REMINDER SYSTEM; TO DECRIMINALIZE CERTAIN LOCAL ORDINANCES AND PROVIDE COMPLIANCE AS A DEFENSE TO AN ORDINANCE VIOLATION; TO INCREASE THE PUNISHMENT FOR RIOT OFFENSES; TO MANDATE MISDEMEANOR FIRST APPEARANCES WHEN A DEFENDANT IS IN CUSTODY; TO REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL; TO ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE; TO ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE VERSUS GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE; TO REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS; TO PROTECT LAW ENFORCEMENT OFFICERS; AND TO AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY.

The General Assembly of North Carolina enacts:



PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW ENFORCEMENT DATABASE REGULATIONS

SECTION 1.(a) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-14. Database of law enforcement officer certification suspensions and revocations.

The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of law enforcement officer certifications by the Commission."

SECTION 1.(b) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-14. Database of justice officer certification suspensions and revocations.

The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of justice officer certifications by the Commission."

SECTION 1.(c) This section becomes effective October 1, 2021.

PART II. REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION (NGI) SYSTEM AND RAP BACK SERVICE

SECTION 2.(a) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-972.1. Criminal record checks for North Carolina Criminal Justice Education and Training Standards Commission and North Carolina Sheriffs' Education and Training Standards Commission; fingerprints sent to Federal Bureau of Investigation.

(a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission the criminal history of any person who applies for certification or is certified, as a criminal justice officer or justice officer, from the State and National Repositories of Criminal Histories. Each agency employing certified criminal justice officers or justice officers shall provide to the SBI, the fingerprints of any person who applies for certification and certified officers, other identifying information required by the State and National Repositories, and any additional information required by the SBI.

(b) The SBI shall conduct a criminal history records check using the fingerprints of the applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B. 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS).

(c) In addition to searching the State's criminal history record file, the SBI shall forward a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The SBI shall enroll each individual whose fingerprints are received under this section in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. The SBI will also notify the certifying Commission of any subsequent arrest of an individual identified through the Rap Back Service.

(d) Within 15 business days of receiving notification by either Commission that the individual whose fingerprints have been stored in the State Automated Fingerprint Identification System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or separated from employment and an Affidavit of Separation has been filed with either Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap Back Service.

(e) The Commissions shall keep all information obtained pursuant to this section confidential."

SECTION 2.(b) No later than June 30, 2023, all personnel certified by either Commission shall have their fingerprints electronically submitted to the SBI for a state and national criminal history check.

SECTION 2.(c) This section becomes effective January 1, 2023.

PART III. CRITICAL INCIDENT STATEWIDE DATABASE

SECTION 3.(a) G.S. 17C-2 reads as rewritten:

"§ 17C-2. Definitions.

Unless the context clearly otherwise requires, the following definitions apply in this Article:

...

(3a) Critical incident. – An incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.

...."

SECTION 3.(b) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-15. Database for law enforcement officer critical incident information.

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of law enforcement officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Division to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A law enforcement officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

SECTION 3.(c) G.S. 17E-2 reads as rewritten:

"§ 17E-2. Definitions.

Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

...

(4) "Critical incident" means an incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person."

SECTION 3.(d) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-15. Database for justice officer critical incident information.

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of justice officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Commission to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A justice officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

1 **SECTION 3.(e)** This section becomes effective October 1, 2021, and applies to
2 critical incidents on or after that date.

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4 **PART IV. REPORT REQUIREMENT RELATED TO GIGLIO MATERIAL**

5 **SECTION 4.(a)** Article 1 of Chapter 17C of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 17C-16. Requirement to report material relevant to testimony.**

8 (a) Any person who is certified by the Commission or has received a conditional offer of
9 employment and who has been notified that the person may not be called to testify at trial based
10 on bias, interest, or lack of credibility shall report and provide a copy of that notification to the
11 Criminal Justice Standards Division within 30 days of receiving the notification, except as
12 provided in subsection (h) of this section. This requirement shall only apply if the person is
13 notified by one of the following methods:

14 (1) In writing by a superior court judge, district court judge, federal judge, district
15 attorney, assistant district attorney, United States attorney, or assistant United
16 States attorney.

17 (2) In open court by a superior court judge, district court judge, or federal judge,
18 and documented in a written order.

19 (b) The report to the Division shall be in writing and shall state who notified the person
20 that the person may not be called to testify at trial. A person required to report to the Division
21 under subsection (a) of this section shall make the same report to the person's agency head within
22 30 days of being notified that the person may not be called to testify at trial. An agency head who
23 receives a report that a person in the agency has been notified that the person may not be called
24 to testify at trial shall also report the notification to the Division in writing within 30 days of the
25 agency head's receipt of that report.

26 (c) A superior court judge, district court judge, federal judge, district attorney, assistant
27 district attorney, United States attorney, or assistant United States attorney who notifies a person
28 that the person may not be called to testify at trial as provided in subsection (a) of this section
29 shall report that notification to the Division and provide a copy of the written document or order
30 within 30 days of notifying the person that the person may not be called to testify at trial.

31 (d) If the Division transfers to another agency the certification of any person required to
32 report to the Division pursuant to subsection (a) of this section, the Division shall provide written
33 notification to both the head of the new agency and the elected district attorney in the
34 prosecutorial district where the agency is located that the person has been previously notified that
35 the person may not be called to testify at trial. If the new agency receiving notification pursuant
36 to this subsection is a State agency, the Division shall notify the elected district attorney in every
37 prosecutorial district of the State.

38 (e) If any person required to report to the Division pursuant to subsection (a) of this
39 section is subsequently informed in writing that the notification has been rescinded, the person
40 shall provide the Division a copy of that document. The provisions of subsection (d) of this
41 section do not apply if the person required to report pursuant to subsection (a) of this section is
42 subsequently informed in writing that the notification has been rescinded.

43 (f) No later than March 1 each year, the Commission shall report to the Joint Legislative
44 Oversight Committee on Justice and Public Safety regarding the number of individuals for whom
45 the Division received a report required by subsection (a) of this section during the previous
46 calendar year. The report shall include information for each case on whether a final agency
47 decision has been entered and what action, if any, has been taken against each certification. The
48 report shall not include the name or any other identifying information of any person required to
49 report pursuant to subsection (a) of this section.

50 (g) The reports and notifications received by the Division pursuant to this section shall
51 not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section, may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received."

SECTION 4.(b) Chapter 17E of the General Statutes is amended by adding a new section to read:

"§ 17E-16. Requirement to report material relevant to testimony.

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Justice Officers' Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

(1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney.

(2) In open court by a superior court judge, district court judge, or federal judge and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that the person may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that the person may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that the person may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that the notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section, may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section, if notice of a hearing is received."

SECTION 4.(c) This section becomes effective October 1, 2021, and applies to notifications received prior to, on, or after that date by persons required to report pursuant to this act.

PART V. REQUIRE CERTAIN MINIMUM LAW ENFORCEMENT OFFICER STANDARDS

SECTION 5.(a) The Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Standards Commission shall jointly develop uniform, statewide minimum standards for law enforcement officers and justice officers and adopt these standards as rules.

SECTION 5.(b) Each Commission shall report the standards developed pursuant to subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public Safety no later than December 31, 2021.

SECTION 5.(c) Each Commission may adopt temporary rules under G.S. 150B-21.1 to comply with this section and shall adopt permanent rules to comply with this section by December 31, 2022.

PART VI. TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS

SECTION 6.(a) G.S. 122C-251(f) reads as rewritten:

"(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk, a magistrate, or a district court judge, where applicable, may authorize either a health care provider of the respondent or the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. This authorization shall only be granted in cases where the danger to the public, the health care provider of the respondent, the family or friends of the respondent, or the respondent himself or herself is not substantial. The health care provider of the respondent or the family or immediate friends of the respondent shall bear the costs of providing this transportation."

1 **SECTION 6.(b)** This section becomes effective October 1, 2021, and applies to
2 custody orders issued on or after that date.

3
4 **PART VII. LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS, ONGOING**
5 **REQUIREMENTS, AND CREATE A PHYSICAL FITNESS STUDY**

6 **SECTION 7.(a)** G.S. 17C-6(a) reads as rewritten:

7 "(a) In addition to powers conferred upon the Commission elsewhere in this Article, the
8 Commission shall have the following powers, which shall be enforceable through its rules and
9 regulations, certification procedures, or the provisions of G.S. 17C-10:

10 ...

11 (2) Establish minimum educational and training standards that must be met in
12 order to qualify for entry level employment and retention as a criminal justice
13 officer in temporary or probationary status or in a permanent position. The
14 standards for entry level employment shall include all of the following:

15 ...

16 c. Education and training to develop knowledge and increase awareness
17 of effective mental health and wellness strategies for criminal justice
18 officers.

19 ...

20 (14) Establish minimum standards for in-service training for criminal justice
21 officers. In-service training standards shall include all of the following:

22 ...

23 c. Training to develop knowledge and increase awareness of effective
24 mental health and wellness strategies for criminal justice officers. The
25 standards established shall include two hours of training on this issue
26 every three years.

27 "

28 **SECTION 7.(b)** G.S. 17E-4(a) reads as rewritten:

29 "(a) The Commission shall have the following powers, duties, and responsibilities, which
30 are enforceable through its rules and regulations, certification procedures, or the provisions of
31 G.S. 17E-8 and G.S. 17E-9:

32 ...

33 (2) Establish minimum educational and training standards that may be met in
34 order to qualify for entry level employment as an officer in temporary or
35 probationary status or in a permanent position. The standards for entry level
36 employment of officers shall include all of the following:

37 ...

38 c. Education and training to develop knowledge and increase awareness
39 of effective mental health and wellness strategies for justice officers.

40 ...

41 (11) Establish minimum standards for in-service training for justice officers.
42 In-service training standards shall include all of the following:

43 ...

44 c. Training to develop knowledge and increase awareness of effective
45 mental health and wellness strategies for justice officers. The
46 standards established shall include two hours of training on this issue
47 every three years.

48 "

49 **SECTION 7.(c)** G.S. 17C-10(c) reads as rewritten:

50 "(c) In addition to the requirements of subsection (b) of this section, the Commission, by
51 rules and regulations, shall fix other qualifications for the employment, training, and retention of

1 criminal justice officers including minimum age, education, physical and mental standards,
2 citizenship, good moral character, experience, and such other matters as relate to the competence
3 and reliability of persons to assume and discharge the responsibilities of criminal justice officers,
4 ~~and the officers. The Commission shall prescribe the means for presenting evidence of fulfillment~~
5 ~~of these requirements. The Commission shall require the administration of a psychological~~
6 ~~screening examination, including a face-to-face interview conducted by a licensed psychologist,~~
7 ~~to determine the criminal justice officer's psychological suitability to properly fulfill the~~
8 ~~responsibilities of the criminal justice officer. The psychological screening examination shall be~~
9 ~~given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any~~
10 ~~action requiring certification by the Commission.~~

11 Where minimum educational standards are not met, yet the individual shows potential and a
12 willingness to achieve the standards by extra study, they may be waived by the Commission for
13 the reasonable amount of time it will take to achieve the standards required. Such an educational
14 waiver shall not exceed 12 months."

15 **SECTION 7.(d)** G.S. 17E-7(c) reads as rewritten:

16 "(c) In addition to the requirements of subsection (b) of this section, the Commission, by
17 rules and regulations, may fix other qualifications for the employment and retention of justice
18 officers including minimum age, education, physical and mental standards, citizenship, good
19 moral character, experience, and such other matters as relate to the competence and reliability of
20 persons to assume and discharge the responsibilities of the office, ~~and the office. The~~
21 ~~Commission shall prescribe the means for presenting evidence of fulfillment of these~~
22 ~~requirements. The Commission shall require the administration of a psychological screening~~
23 ~~examination, including a face-to-face interview conducted by a licensed psychologist, to~~
24 ~~determine the justice officer's psychological suitability to properly fulfill the responsibilities of~~
25 ~~the justice officer. The psychological screening examination shall be given (i) prior to the initial~~
26 ~~certification or (ii) prior to the criminal justice officer performing any action requiring~~
27 ~~certification by the Commission.~~

28 Where minimum educational standards are not met, yet the individual shows potential and a
29 willingness to achieve the standards by extra study, they may be waived by the Commission for
30 the reasonable amount of time it will take to achieve the standards required. Upon petition from
31 a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any
32 justice officer serving that sheriff."

33 **SECTION 7.(e)** In developing the standards and training required by subsections (a)
34 and (b) of this section, the North Carolina Criminal Justice Education and Training Standards
35 Commission and the North Carolina Sheriffs' Education and Training Standards Commission are
36 encouraged to adopt standards that provide training conducted by mental health professionals
37 and through face-to-face instruction.

38 **SECTION 7.(f)** The North Carolina Criminal Justice Education and Training
39 Standards Commission and the North Carolina Sheriffs' Education and Training Standards
40 Commission shall regularly provide information on any statewide mental health resources
41 specifically available to criminal justice officers or justice officers to all criminal justice agencies
42 or departments in the State that employ officers certified by either Commission.

43 **SECTION 7.(g)** All criminal justice agencies or departments in the State that employ
44 criminal justice officers certified by the North Carolina Criminal Justice Education and Training
45 Standards Commission or justice officers certified by the North Carolina Sheriffs' Education and
46 Training Standards Commission shall coordinate with the appropriate local management
47 entity/managed care organization (LME/MCO) or prepaid health plan, as defined under
48 G.S. 108D-1, to make information on State and local mental health resources and programs easily
49 available to all employees and develop policies to encourage employees to utilize the resources
50 available.

SECTION 7.(h) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly study the benefits, if any, of requiring physical fitness testing throughout the career of a law enforcement officer, and shall also study whether that testing, if required, should be incrementally adjusted based upon the age of the law enforcement officer, and report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 31, 2022.

SECTION 7.(i) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall implement the requirements of subsections (a) through (d) of this section no later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply to certifications issued and employees entering employment on or after the implementation date of those requirements.

SECTION 7.(j) Subsections (a) through (d) of this section become effective January 1, 2022, and apply to applications for law enforcement certification filed on or after that date. The remainder of this section is effective when it becomes law.

PART VIII. DEVELOPMENT OF EARLY WARNING SYSTEMS

SECTION 8.(a) Chapter 17A of the General Statutes is amended by adding a new section to read:

"§ 17A-10. Development of law enforcement early warning system.

(a) Every agency in the State that employs personnel certified by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission shall develop and implement an early warning system to document and track the actions and behaviors of law enforcement officers for the purpose of intervening and improving performance. The early warning system required by this section shall include information, at a minimum, regarding the following:

(1) Instances of the discharge of a firearm.

(2) Instances of use of force.

(3) Vehicle collisions.

(4) Citizen complaints.

(b) Information collected under this section that is confidential under State or federal law shall remain confidential.

(c) For purposes of this section, "law enforcement officer" means any sworn law enforcement officers with the power of arrest, both State and local."

SECTION 8.(b) This section becomes effective December 1, 2021, and applies to actions and behaviors on or after that date.

PART IX. LAW ENFORCEMENT AGENCY BEST PRACTICES RECRUITING GUIDE

SECTION 9.(a) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly develop a best practices guide to help law enforcement agencies recruit and retain a diverse workforce.

SECTION 9.(b) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than April 1, 2022, regarding the best practices guide required by subsection (a) of this section.

PART X. INVESTIGATIONS OF OFFICER-INVOLVED SHOOTINGS

SECTION 10.(a) G.S. 143B-919 is amended by adding a new subsection to read:

"(b1) The Bureau shall, upon request of the Governor or a sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons, investigate and prepare evidence in the event of any of the following:

(1) A sworn law enforcement officer with the power to arrest uses force against an individual in the performance of the officer's duties that results in the death of, or serious bodily injury to, the individual.

(2) An individual in the custody of the Department of Public Safety, a State prison, a county jail, or a local confinement facility, regardless of the physical location of the individual, dies or suffers serious bodily injury.

"Serious bodily injury" as used in this subsection is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization."

SECTION 10.(b) This section becomes effective October 1, 2021.

PART XI. MANDATORY IN-SERVICE TRAINING FOR LAW ENFORCEMENT OFFICERS

SECTION 11.(a) G.S. 17C-6(a), as amended by Section 7 of this act, reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:

a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.

b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

c. Ethics.

d. Mental health for criminal justice officers.

e. Community policing.

f. Minority sensitivity.

g. Use of force.

h. The duty to intervene and report.

...."

SECTION 11.(b) G.S. 17E-4(a), as amended by Section 7 of this act, reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(11) Establish minimum standards for in-service training for justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:

- a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.
- b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
- c. Ethics.
- d. Mental health for justice officers.
- e. Community policing.
- f. Minority sensitivity.
- g. Use of force.
- h. The duty to intervene and report.

...."

SECTION 11.(c) This section becomes effective January 1, 2022.

PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING STANDARDS FROM RULEMAKING

SECTION 12.(a) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(6a) The Criminal Justice Education and Training Standards Commission with respect to establishing minimum standards for in-service training for criminal justice officers under G.S. 17C-6(a)(14).

(6b) The Sheriffs' Education and Training Standards Commission with respect to establishing minimum standards for in-service training for justice officers under G.S. 17E-4(a)(11).

...."

SECTION 12.(b) This section is effective when it becomes law.

PART XIII. UTILIZE TECHNOLOGY TO LIMIT FAILURES TO APPEAR IN COURT

SECTION 13.(a) The Administrative Office of the Courts shall automatically enroll all criminal defendants into its court date reminder system. A criminal defendant shall be allowed to opt out of this automatic enrollment by using processes developed by the Administrative Office of the Courts. The processes that allow a criminal defendant to opt out of this automatic enrollment shall be developed and implemented no later than December 1, 2021.

SECTION 13.(b) This section becomes effective December 1, 2021, and applies to criminal defendants arrested on or after that date.

PART XIV. DECRIMINALIZATION OF CERTAIN ORDINANCES

SECTION 14.(a) G.S. 153A-123 reads as rewritten:

"§ 153A-123. Enforcement of ordinances.

...

(b) ~~Unless the board of commissioners has provided otherwise, Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance is~~ may be a misdemeanor or infraction as provided by ~~G.S. 14-4. G.S. 14-4 only if the county specifies such~~

1 in the ordinance. An ordinance may provide by express statement that the maximum fine, term
2 of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or
3 number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45,
4 no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first
5 introduced.

6 (b1) No ordinance of the following types may impose a criminal penalty:

- 7 (1) Any ordinance adopted under Article 18 of this Chapter, Planning and
8 Regulation of Development or, its successor, Chapter 160D of the General
9 Statutes, except for those ordinances related to unsafe buildings.
- 10 (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing
11 businesses, trades, etc.
- 12 (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile
13 homes, house trailers, etc.
- 14 (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing
15 programs.
- 16 (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor
17 advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- 18 (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating
19 solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- 20 (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating
21 cisterns and rain barrels.
- 22 (8) Any ordinance regulating trees.

23"

24 **SECTION 14.(b)** G.S. 160A-175 reads as rewritten:

25 **"§ 160A-175. Enforcement of ordinances.**

26 ...

27 (b) ~~Unless the Council shall otherwise provide,~~ Except for the types of ordinances listed
28 in subsection (b1) of this section, violation of a city ordinance is may be a misdemeanor or
29 infraction as provided by G.S. 14-4. G.S. 14-4 only if the city specifies such in the ordinance. An
30 ordinance may provide by express statement that the maximum fine, term of imprisonment, or
31 infraction penalty to be imposed for a violation is some amount of money or number of days less
32 than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance
33 specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

34 (b1) No ordinance of the following types may impose a criminal penalty:

- 35 (1) Any ordinance adopted under Article 19 of this Chapter, Planning and
36 Regulation of Development, or its successor, Chapter 160D of the General
37 Statutes, except for those ordinances related to unsafe buildings.
- 38 (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing
39 programs.
- 40 (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing
41 businesses, trades, etc.
- 42 (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor
43 advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- 44 (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating
45 solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- 46 (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating
47 cisterns and rain barrels.
- 48 (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- 49 (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- 50 (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- 51 (10) Any ordinance regulating trees.

...."

SECTION 14.(c) G.S. 14-4 reads as rewritten:

"§ 14-4. Violation of local ordinances misdemeanor.

(a) Except as provided in ~~subsection (b), this section,~~ if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).

(c) A person may not be found responsible or guilty of a local ordinance violation if, when tried for that violation, the person produces proof of compliance with the local ordinance through any of the following:

(1) No new alleged violations of the local ordinance within 30 days from the date of the initial alleged violation.

(2) The person provides proof of a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person's ability to comply with the local ordinance."

SECTION 14.(d) This section becomes effective December 1, 2021, and applies to offenses and violations committed on or after that date.

PART XV. INCREASE THE PUNISHMENT FOR RIOT OFFENSES

SECTION 15.(a) G.S. 14-288.2 reads as rewritten:

"§ 14-288.2. Riot; inciting to riot; punishments.

(a) A riot is a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.

(b) Any person who willfully engages in a riot is guilty of a Class 1 misdemeanor.

(c) Any person who willfully engages in a riot is guilty of a Class ~~H-G~~ felony, ~~if:~~

~~(1) In the course and as a result of the riot there is if in the course of the riot, the person causes property damage in excess of fifteen hundred dollars (\$1,500) or serious bodily injury; or (\$1,500).~~

(c1) Any person who willfully engages in a riot is guilty of a Class F felony if one of the following applies:

(1) In the course of the riot, the person causes serious bodily injury to another.

(2) ~~Such participant in the riot has in his possession any~~ In the course of the riot, the person brandishes a dangerous weapon or uses a dangerous substance.

(d) Any person who willfully incites or urges another to engage in a riot, so that as a result of such inciting or urging a riot occurs or a clear and present danger of a riot is created, is guilty of a Class 1 misdemeanor.

(e) Any person who willfully incites or urges another to engage in a riot, and such inciting or urging is a contributing cause of a riot in which there is property damage in excess of fifteen hundred dollars (\$1,500) or serious bodily injury, shall be punished as a Class F felon.

(f) For the purposes of this section, "dangerous substance" may include, but is not limited to, tear gas or pepper spray.

(g) Mere presence alone without an overt act is not sufficient to sustain a conviction pursuant to this section."

1 **SECTION 15.(b)** This section becomes effective December 1, 2021, and applies to
2 offenses committed on or after that date.

3
4 **PART XVI. REQUIRE MANDATORY FIRST APPEARANCE FOR MISDEMEANORS**
5 **WHEN DEFENDANT IS IN CUSTODY AND REQUIRE FIRST APPEARANCE FOR**
6 **ALL CHARGES WHEN DEFENDANT IS IN CUSTODY TO BE HELD WITHIN**
7 **SEVENTY-TWO HOURS**

8 **SECTION 16.(a)** G.S. 15A-601 reads as rewritten:

9 **"§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases~~**
10 **~~in original jurisdiction of superior court; consolidation of first appearance~~**
11 **~~before magistrate and before district court judge; first appearance before clerk~~**
12 **~~of superior court; use of two-way audio and video transmission.~~**

13 (a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal
14 process under Article 17 of this Chapter, Criminal Process, with a crime in the original
15 jurisdiction of the superior court must be brought before a district court judge in the district court
16 district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This
17 first appearance before a district court judge is not a critical stage of the proceedings against the
18 defendant.

19 Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under
20 Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held in custody
21 must be brought before a district court judge in the district court district as defined in G.S. 7A-133
22 in which the crime is charged to have been committed. This first appearance before a district
23 court judge is not a critical stage of the proceedings against the defendant.

24 ...

25 (b) When a district court judge conducts an initial appearance as provided in
26 G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this
27 Article.

28 (c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first
29 appearance before a district court judge must be held within ~~96-72~~ hours after the defendant is
30 taken into custody or at the first regular session of the district court in the county, whichever
31 occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this
32 Chapter, Bail, within ~~96-72~~ hours after being taken into custody, first appearance must be held at
33 the next session of district court held in the county. This subsection does not apply to a defendant
34 whose first appearance before a district court judge has been set in a criminal summons pursuant
35 to G.S. 15A-303(d).

36 ...

37 (e) The clerk of the superior court in the county in which the defendant is taken into
38 custody may conduct a first appearance as provided in this Article if a district court judge is not
39 available in the county within ~~96-72~~ hours after the defendant is taken into custody. The clerk, in
40 conducting a first appearance, shall proceed under this Article as would a district court judge."

41 **SECTION 16.(b)** This section becomes effective December 1, 2021, and applies to
42 criminal processes served on or after that date.

43
44 **PART XVII. REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX**
45 **MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW**
46 **ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION**
47 **PROCESS FOR CERTIFIED PERSONNEL**

48 **SECTION 17.(a)** G.S. 17E-4(a) reads as rewritten:

49 "(a) The Commission shall have the following powers, duties, and responsibilities, which
50 are enforceable through its rules and regulations, certification procedures, or the provisions of
51 G.S. 17E-8 and G.S. 17E-9:

...

(17) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.

...."

SECTION 17.(b) G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(21) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification."

SECTION 17.(c) This section becomes effective October 1, 2021, and applies to applications for certification submitted on or after that date.

PART XVIII. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE

SECTION 18.(a) G.S. 15A-401 is amended by adding a new subsection to read:

"(d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer, while in the line of duty, who observes another law enforcement officer use force against another person that the observing officer reasonably believes exceeds the amount of force authorized by subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall if it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter, report what the officer reasonably believes to be an unauthorized use of force to a superior law enforcement officer within the agency of the observing officer, even if the observing officer did not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the observing officer was involved or present during what the observing officer reasonably believes to be unauthorized use of force, the observing officer shall make the report to the highest ranking law enforcement officer of that officer's agency who was not involved in or present during the use of force. The report under this subsection is required even if the observing officer did not have a reasonable opportunity to intervene."

SECTION 18.(b) This section becomes effective December 1, 2021, and applies to uses of force that occur on or after that date.

PART XIX. REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS

SECTION 19.(a) G.S. 93B-1(3)(e) is repealed.

SECTION 19.(b) This section becomes effective December 1, 2021.

PART XX. ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE V. GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE

SECTION 20.(a) Part V of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.39. Legislative finding of efficacy.

The General Assembly finds that empirical and statistical reports such as the 2015 California Study, "Does GPS Improve Recidivism among High Risk Sex Offenders? Outcomes for California's GPS Pilot for High Risk Sex Offender Parolees," show that sex offenders monitored with the global positioning system (GPS) are less likely than other sex offenders to receive a violation for committing a new crime, and that offenders monitored by GPS demonstrated significantly better outcomes for both increasing compliance and reducing recidivism. It is the intent of the General Assembly to protect the public from victimization. Therefore, the General Assembly recognizes that the GPS monitoring program is an effective tool to deter criminal behavior among sex offenders."

SECTION 20.(b) G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

...

(3e) Reoffender. – A person who has two or more convictions for a felony that is described in G.S. 14-208.6(4).

...."

SECTION 20.(c) G.S. 14-208.40 reads as rewritten:

"§ 14-208.40. Establishment of program; creation of guidelines; duties.

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor three categories of offenders as follows:

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a ~~recidivist~~, reoffender, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.
- (3) Any offender who is convicted of G.S. 14-27.23 or G.S. 14-27.28, who shall be enrolled in the satellite-based monitoring program for ~~the offender's natural life upon 10 years after the termination of the offender's active punishment~~, punishment, or the completion of any period of probation, whichever occurs later.

(b) In developing the guidelines for the program, the Division of Adult Correction and Juvenile Justice shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Division of Adult Correction and Juvenile Justice

determines that an active program will not work as provided by this section, then the Division of Adult Correction and Juvenile Justice shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

- (1) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology.
- (2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real-time (active).

(d) The Division of Adult Correction and Juvenile Justice may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part."

SECTION 20.(d) G.S. 14-208.40A reads as rewritten:

"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a ~~recidivist, reoffender~~, has committed an aggravated offense, or was convicted of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in a satellite-based monitoring program for life. Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years after the termination of the offender's active punishment, or the completion of any period of probation, whichever occurs later.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a ~~recidivist, reoffender~~, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court, not to exceed 10 years after the termination of the offender's active punishment, or the completion of any period of probation, whichever occurs later."

SECTION 20.(e) G.S. 14-208.40B reads as rewritten:

"§ 14-208.40B. Determination of satellite-based monitoring requirement in certain circumstances.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall be required to enroll in satellite-based monitoring, the Division of Adult Correction and Juvenile Justice shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14-208.40(a).

(b) If the Division of Adult Correction and Juvenile Justice determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing the Division of Adult Correction and Juvenile Justice, shall schedule a hearing in superior court for the county in which the offender resides. The Division of Adult Correction and Juvenile Justice shall notify the offender of the Division of Adult Correction and Juvenile Justice's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt. Upon the court's determination that the offender is indigent and entitled to counsel, the court shall assign counsel to represent the offender at the hearing pursuant to rules adopted by the Office of Indigent Defense Services.

(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in satellite-based monitoring for life. Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years after the termination of the offender's active punishment, or the completion of any period of probation, whichever occurs later.

1 If the court finds that the offender committed an offense that involved the physical, mental,
2 or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of
3 G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a ~~recidivist, reoffender,~~ the court shall
4 order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the
5 offender. The Division of Adult Correction and Juvenile Justice shall have a minimum of 30
6 days, but not more than 60 days, to complete the risk assessment of the offender and report the
7 results to the court. The Division of Adult Correction and Juvenile Justice may use a risk
8 assessment of the offender done within six months of the date of the hearing.

9 Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice,
10 the court shall determine whether, based on the Division of Adult Correction and Juvenile
11 Justice's risk assessment, the offender requires the highest possible level of supervision and
12 monitoring. If the court determines that the offender does require the highest possible level of
13 supervision and monitoring, the court shall order the offender to enroll in a satellite-based
14 monitoring program for a period of time to be specified by the ~~court,~~ court, not to exceed 10 years
15 after the termination of the offender's active punishment, or the completion of any period of
16 probation, whichever occurs later."

17 **SECTION 20.(f)** G.S. 14-208.41 reads as rewritten:

18 **"§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of**
19 **enrollment.**

20 (a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based
21 monitoring program with the Section of Community Corrections of the Division of Adult
22 Correction and Juvenile Justice office in the county where the person resides. The person shall
23 remain enrolled in the satellite-based monitoring program for the registration period imposed
24 ~~under G.S. 14-208.23 which is the person's life, for a period required by G.S. 14-208.40A or~~
25 G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is
26 terminated or modified pursuant to G.S. 14-208.43.

27 (b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant
28 to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall
29 do so with the Section of Community Corrections of the Division of Adult Correction and
30 Juvenile Justice office in the county where the person resides. The person shall remain enrolled
31 in the satellite-based monitoring program for the period of time ordered by the court.

32 (c) Any person described by G.S. 14-208.40(a)(3), upon completion of active
33 punishment, shall enroll in a satellite-based monitoring program with the Section of Community
34 Corrections of the Division of Adult Correction and Juvenile Justice office in the county where
35 the person resides. The person shall enroll in the satellite-based monitoring program for the entire
36 period of post-release supervision and shall remain enrolled in the satellite-based monitoring
37 program for ~~the person's life, the period required by G.S. 14-208.40A or G.S. 14-208.40B unless~~
38 the requirement to enroll in the satellite-based monitoring program is terminated or modified
39 pursuant to G.S. 14-208.43."

40 **SECTION 20.(g)** G.S. 14-208.42 reads as rewritten:

41 **"§ 14-208.42. Offenders required to submit to satellite-based monitoring required to**
42 **cooperate with Division of Adult Correction and Juvenile Justice upon**
43 **completion of sentence.**

44 Notwithstanding any other provision of law, when an offender is required to enroll in
45 satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of
46 the offender's sentence and any term of parole, post-release supervision, intermediate
47 punishment, or supervised probation that follows the sentence, the offender shall continue to be
48 enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or
49 G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring
50 program is terminated or modified pursuant to G.S. 14-208.43.

1 The Division of Adult Correction and Juvenile Justice shall have the authority to have contact
2 with the offender at the offender's residence or to require the offender to appear at a specific
3 location as needed for the purpose of enrollment, to receive monitoring equipment, to have
4 equipment examined or maintained, and for any other purpose necessary to complete the
5 requirements of the satellite-based monitoring program. The offender shall cooperate with the
6 Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based
7 monitoring program until the offender's requirement to enroll is terminated and the offender has
8 returned all monitoring equipment to the Division of Adult Correction and Juvenile Justice."

9 **SECTION 20.(h)** G.S. 14-208.43 reads as rewritten:

10 **"§ 14-208.43. Request-Petition for termination or modification of the satellite-based**
11 **monitoring requirement.**

12 (a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is
13 required to submit to satellite-based monitoring ~~for the offender's life~~ may file a ~~request-petition~~
14 for termination or modification of the monitoring requirement with the Post-Release Supervision
15 and Parole Commission, superior court in the county where the conviction occurred five years
16 from the date of initial enrollment if the person has not committed a subsequent offense requiring
17 enrollment in the satellite-based monitoring program under this Article or the laws of any other
18 jurisdiction. The request to terminate the satellite-based monitoring requirement and to terminate
19 the accompanying requirement of unsupervised probation may not be submitted until at least one
20 year after the offender: (i) has served his or her sentence for the offense for which the
21 satellite-based monitoring requirement was imposed, and (ii) has also completed any period of
22 probation, parole, or post-release supervision imposed as part of the sentence.

23 (b) ~~Upon receipt of the request for termination, the Commission shall review~~
24 ~~documentation contained in the offender's file and the statewide registry to determine whether~~
25 ~~the person has complied with the provisions of this Article. In addition, the Commission shall~~
26 ~~conduct fingerprint-based state and federal criminal history record checks to determine whether~~
27 ~~the person has been convicted of any additional reportable convictions.~~

28 (c) ~~If it is determined that the person has not received any additional reportable~~
29 ~~convictions during the period of satellite-based monitoring and the person has substantially~~
30 ~~complied with the provisions of this Article, the Commission may terminate the monitoring~~
31 ~~requirement if the Commission finds that the person is not likely to pose a threat to the safety of~~
32 ~~others.~~

33 (d) ~~If it is determined that the person has received any additional reportable convictions~~
34 ~~during the period of satellite-based monitoring or has not substantially complied with the~~
35 ~~provisions of this Article, the Commission shall not order the termination of the monitoring~~
36 ~~requirement.~~

37 (d1) ~~Notwithstanding the provisions of this section, if the Commission is notified by the~~
38 ~~Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the~~
39 ~~offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under~~
40 ~~Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order~~
41 ~~the termination of the monitoring requirement.~~

42 (e) ~~The Commission shall not consider any request to terminate a monitoring requirement~~
43 ~~except as provided by this section. The district attorney in the district in which the petition is filed~~
44 ~~shall be given notice of the petition at least three weeks before the hearing on the matter. The~~
45 ~~petitioner may present evidence in support of the petition, and the district attorney may present~~
46 ~~evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the~~
47 ~~petition should be denied.~~

48 (c) The victim of the underlying offense may appear and be heard by the court in a
49 proceeding regarding a petition for termination or modification of satellite-based monitoring
50 requirement. If the victim has elected to receive notices of such proceedings, the district
51 attorney's office shall notify the victim of the date, time, and place of the hearing. The district

attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) The petition may be granted only if the court makes all of the following findings:

(1) The petitioner no longer requires the highest possible level of supervision and monitoring for 10 years after the termination of the offender's active punishment, or the completion of any period of probation, whichever occurs later.

(2) The petitioner demonstrates to the court that he or she has not been arrested for any crime that would require registration under this Article since completing the sentence.

(e) The court may order any of the following:

(1) The petitioner to remain enrolled in the satellite-based monitoring program for 10 years after the termination of the offender's active punishment, or the completion of any period of probation, whichever occurs later.

(2) The petitioner to remain enrolled in the satellite-based monitoring program for a period of time to be specified by the court, not to exceed 10 years after the termination of the offender's active punishment, or the completion of any period of probation, whichever occurs later.

(3) The petitioner's requirement to enroll in the satellite-based monitoring program be terminated.

(4) The defendant to submit to a passive continuous satellite-based program that works within the technological or geographical limitations for a set period of time not to exceed 10 years after the termination of the offender's active punishment, or the completion of any period of probation, whichever occurs later.

(f) If the court denies the petition, the person may again petition the court for relief in accordance with this section two years from the date of the denial of the original petition to terminate the satellite-based monitoring requirement. If the court grants the petition, the clerk of court shall forward a certified copy of the order to the Post Release Supervision and Parole Commission. ~~The Commission-court~~ has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14-208.40(a)(2)."

SECTION 20.(i) The Division of Adult Correction and Juvenile Justice shall provide each elected District Attorney a list of the individuals that reside in a county in that District Attorney's district that is subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), decided August 16, 2019, namely all individuals in the same category as the defendant, Mr. Grady: individuals subject to mandatory lifetime satellite-based monitoring based solely on their status as a statutorily defined "recidivist" who have completed their prison sentences and are no longer supervised by the State through probation, parole, or post-release supervision. 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 a preliminary determination whether the recidivist subject to State v. Grady, may meet any requirement to enroll in a satellite-based monitoring program other than being a recidivist, and represent the State in any proceedings created by this section. Each District Attorney or Attorney General shall review the determination for every one of the class members. If the District Attorney or Attorney General makes a preliminary determination that the individual may meet any requirement to

enroll in a satellite-based monitoring program other than being a recidivist, 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 a hearing to have a judge determine if an individual subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), meets the criteria for satellite-based monitoring consistent with G.S. 14-208.40A, as amended by this act.

SECTION 20.(j) Subsection (i) of this section becomes effective August 1, 2021, and applies to any individual required to enroll in the satellite-based monitoring program based solely on being a "recidivist," on or after August 16, 2019. The remainder of this section becomes effective December 1, 2021, and applies to satellite-based monitoring determinations on or after that date.

PART XXI. PROTECTIONS FOR LAW ENFORCEMENT OFFICERS

SECTION 21.(a) G.S. 14-223 reads as rewritten:

"§ 14-223. Resisting officers.

(a) If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge a duty of his office, he shall be an official duty, the person is guilty of a Class 2 misdemeanor.

(b) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's physical injury, the person is guilty of a Class I felony.

(c) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's serious bodily injury, the person is guilty of a Class F felony.

(d) For the purposes of this section, "physical injury" includes cuts, scrapes, bruises, or other physical injury. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization."

SECTION 21.(b) In order to raise public awareness about resisting, delaying, and obstructing law enforcement officers and encourage North Carolina residents to interact with law enforcement officers safely, the Department of Public Safety shall create a targeted social media campaign and television commercials that address the concerns of not resisting arrest and raising public awareness about resisting, delaying, and obstructing law enforcement officers. DPS shall also make available on its internet website a public service announcement containing legally accurate information regarding the public's responsibilities during traffic stops and other interactions with law enforcement.

SECTION 21.(c) The Department of Public Safety shall provide to the Department of Motor Vehicles an internet link to the public service announcement authorized by subsection (b) of this section, which the Department of Motor Vehicles shall make available on its internet website. In addition, the Department of Motor Vehicles shall broadcast the public service announcement authorized by subsection (b) of this section on monitors at drivers license office locations across the State.

SECTION 21.(d) Subsections (a) and (b) of this section become effective December 1, 2021, and apply to offenses committed on or after that date. This remainder of this section is effective when it becomes law.

PART XXII. AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY

SECTION 22.(a) G.S. 132-1.4A reads as rewritten:

1 **"§ 132-1.4A. Law enforcement agency recordings.**

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

3 (1) Body-worn camera. – An operational video or digital camera or other
4 electronic device, including a microphone or other mechanism for allowing
5 audio capture, affixed to the uniform or person of law enforcement agency
6 personnel and positioned in a way that allows the camera or device to capture
7 interactions the law enforcement agency personnel has with others.

8 (2) Custodial law enforcement agency. – The law enforcement agency that owns
9 or leases or whose personnel operates the equipment that created the recording
10 at the time the recording was made.

11 (3) Dashboard camera. – A device or system installed or used in a law
12 enforcement agency vehicle that electronically records images or audio
13 depicting interaction with others by law enforcement agency personnel. This
14 term does not include body-worn cameras.

15 (4) Disclose or disclosure. – To make a recording available for viewing or
16 listening to by the person requesting disclosure, at a time and location chosen
17 by the custodial law enforcement agency. This term does not include the
18 release of a recording.

19 (4a) Immediate family member. – A spouse, parent, child, sibling, or
20 court-appointed guardian.

21 (5) Personal representative. – A parent, court-appointed guardian, spouse, or
22 ~~attorney-attorney, licensed in North Carolina,~~ of a person whose image or
23 voice is in the recording. If a person whose image or voice is in the recording
24 is deceased, the term also means the personal representative of the estate of
25 the deceased person; the deceased person's surviving spouse, parent, or adult
26 child; the deceased person's ~~attorney; attorney, licensed in North Carolina;~~ or
27 the parent or guardian of a surviving minor child of the deceased.

28 (6) Recording. – A visual, audio, or visual and audio recording captured by a
29 body-worn camera, a dashboard camera, or any other video or audio recording
30 device operated by or on behalf of a law enforcement agency or law
31 enforcement agency personnel when carrying out law enforcement
32 responsibilities. This term does not include any video or audio recordings of
33 interviews regarding agency internal investigations or interviews or
34 interrogations of suspects or witnesses.

35 (7) Release. – To provide a copy of a recording.

36 (8) Serious bodily injury. – A bodily injury that creates a substantial risk of death,
37 or that causes serious permanent disfigurement, coma, a permanent or
38 protracted condition that causes extreme pain, or permanent or protracted loss
39 or impairment of the function of any bodily member or organ, or that results
40 in prolonged hospitalization.

41 (b) Public Record and Personnel Record Classification. – Recordings are not public
42 records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of
43 Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

44 (b1) Immediate Disclosure. – If requested, any portion of a recording in the custody of a
45 law enforcement agency which depicts a death or serious bodily injury shall be disclosed
46 unredacted to a personal representative of the deceased, the injured individual, or a personal
47 representative on behalf of the injured individual, within five business days unless one of the
48 following occurs:

49 (1) The requestor requests to receive disclosure more than five business days after
50 submitting the request.

(2) The law enforcement agency petitions the court as provided in subsection (b3) of this section.

(b2) In order to receive disclosure pursuant to this subsection, a person must sign a sworn affidavit of confidentiality attesting, under penalty of perjury, that anything depicted on the recording shall remain confidential unless otherwise allowed by law. The affidavit, provided by the agency, shall include the criminal penalties provided in subsection (b4) of this section. If a request pursuant to this subsection is denied, a person may proceed to petition the court as provided in subsection (e) of this section. Any disclosure will be done by the agency in a private setting. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. Except as provided in subsection (b3) of this section, the portion of the recording relevant to the death or serious bodily injury shall not be edited or redacted.

(b3) Immediate Disclosure Review. – A law enforcement agency may make a motion in the superior court in any county where any portion of the recording was made for permission to redact the recording requested pursuant to subsection (b1) of this section. The court may conduct an in-camera review of the recording. In determining whether or not the recording may be redacted for the purposes of immediate disclosure, the court shall consider the following factors:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive and personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, (iii) the District Attorney, and (iv) the party requesting the disclosure. The court may order any conditions or restrictions on the disclosure that the court deems appropriate.

Actions brought pursuant to this subsection shall be scheduled for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(b4) Any person who willfully violates subsection (b2) of this section by recording, copying, or attempting to record or copy a recording disclosed pursuant to subsection (b1) of this section shall be guilty of a Class 1 misdemeanor. Any person who knowingly disseminates a recording or a copy of a recording disclosed pursuant to subsection (b1) of this section is guilty of a Class I felony.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

- (1) A person whose image or voice is in the recording.

- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

(d) Disclosure; Factors for Consideration. – Upon receipt of the written request for disclosure, as promptly as possible, the custodial law enforcement agency must either disclose the portion of the recording relevant to the person's request or notify the requestor of the custodial law enforcement agency's decision not to disclose the recording to the requestor.

The custodial law enforcement agency may consider any of the following factors in determining if a recording is disclosed:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to ~~subsection (b1)~~ or (d) of this section, or has failed to provide disclosure more than three business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the law enforcement agency abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(f) Release of Recordings to Certain Persons; Expedited Process. – Notwithstanding the provisions of subsection (g) of this section, a person authorized to receive disclosure pursuant to subsection (c) of this section, or the custodial law enforcement agency, may petition the superior court in any county where any portion of the recording was made for an order releasing the recording to a person authorized to receive disclosure. There shall be no fee for filing the petition which shall be filed on a form approved by the Administrative Office of the Courts and shall

1 state the date and approximate time of the activity captured in the recording, or otherwise identify
2 the activity with reasonable particularity sufficient to identify the recording. If the petitioner is a
3 person authorized to receive disclosure, notice and an opportunity to be heard shall be given to
4 the head of the custodial law enforcement agency. Petitions filed pursuant to this subsection shall
5 be set down for hearing as soon as practicable and shall be accorded priority by the court.

6 The court shall first determine if the person to whom release of the recording is requested is
7 a person authorized to receive disclosure pursuant to subsection (c) of this section. In making this
8 determination, the court may conduct an in-camera review of the recording and may, in its
9 discretion, allow the petitioner to be present to assist in identifying the image or voice in the
10 recording that authorizes disclosure to the person to whom release is requested. If the court
11 determines that the person is not authorized to receive disclosure pursuant to subsection (c) of
12 this section, there shall be no right of appeal and the petitioner may file an action for release
13 pursuant to subsection (g) of this section.

14 If the court determines that the person to whom release of the recording is requested is a
15 person authorized to receive disclosure pursuant to subsection (c) of this section, the court shall
16 consider the standards set out in subsection (g) of this section and any other standards the court
17 deems relevant in determining whether to order the release of all or a portion of the recording.
18 The court may conduct an in-camera review of the recording. The court shall release only those
19 portions of the recording that are relevant to the person's request and may place any conditions
20 or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

21 (g) Release of Recordings; General; Court Order Required. – Recordings in the custody
22 of a law enforcement agency shall only be released pursuant to court order. Any custodial law
23 enforcement agency or any person requesting release of a recording may file an action in the
24 superior court in any county where any portion of the recording was made for an order releasing
25 the recording. The request for release must state the date and approximate time of the activity
26 captured in the recording, or otherwise identify the activity with reasonable particularity
27 sufficient to identify the recording to which the action refers. The court may conduct an in-camera
28 review of the recording. In determining whether to order the release of all or a portion of the
29 recording, in addition to any other standards the court deems relevant, the court shall consider
30 the applicability of all of the following standards:

- 31 (1) Release is necessary to advance a compelling public interest.
- 32 (2) The recording contains information that is otherwise confidential or exempt
33 from disclosure or release under State or federal law.
- 34 (3) The person requesting release is seeking to obtain evidence to determine legal
35 issues in a current or potential court proceeding.
- 36 (4) Release would reveal information regarding a person that is of a highly
37 sensitive personal nature.
- 38 (5) Release may harm the reputation or jeopardize the safety of a person.
- 39 (6) Release would create a serious threat to the fair, impartial, and orderly
40 administration of justice.
- 41 (7) Confidentiality is necessary to protect either an active or inactive internal or
42 criminal investigation or potential internal or criminal investigation.
- 43 (8) There is good cause shown to release all portions of a recording.

44 The court shall release only those portions of the recording that are relevant to the person's
45 request, and may place any conditions or restrictions on the release of the recording that the court,
46 in its discretion, deems appropriate.

47 In any proceeding pursuant to this subsection, the following persons shall be notified and
48 those persons, or their designated representative, shall be given an opportunity to be heard at any
49 proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement
50 agency personnel whose image or voice is in the recording and the head of that person's
51 employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to

1 this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings
2 in such actions shall be accorded priority by the trial and appellate courts.

3 (h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the
4 requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency
5 shall disclose or release a recording to a district attorney (i) for review of potential criminal
6 charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for
7 use in criminal proceedings in district court, or (iv) for any other law enforcement purpose, and
8 may disclose or release a recording for any of the following purposes:

9 (1) For law enforcement training purposes.

10 (2) Within the custodial law enforcement agency for any administrative, training,
11 or law enforcement purpose.

12 (3) To another law enforcement agency for law enforcement purposes.

13 (4) For suspect identification or apprehension.

14 (5) To locate a missing or abducted person.

15 (i) Retention of Recordings. – Any recording subject to the provisions of this section
16 shall be retained for at least the period of time required by the applicable records retention and
17 disposition schedule developed by the Department of Natural and Cultural Resources, Division
18 of Archives and Records.

19 (j) Agency Policy Required. – Each law enforcement agency that uses body-worn
20 cameras or dashboard cameras shall adopt a policy applicable to the use of those cameras.

21 (k) No civil liability shall arise from compliance with the provisions of this section,
22 provided that the acts or omissions are made in good faith and do not constitute gross negligence,
23 willful or wanton misconduct, or intentional wrongdoing.

24 (l) Fee for Copies. – A law enforcement agency may charge a fee to offset the cost
25 incurred by it to make a copy of a recording for release. The fee shall not exceed the actual cost
26 of making the copy.

27 (m) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action
28 brought pursuant to this section."

29 **SECTION 22.(b)** This section becomes effective December 1, 2021, and applies to
30 all recordings made on or after that date.

31 **PART XXIII. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE**

32 **SECTION 23.(a)** If any provision of this act or its application is held invalid, the
33 invalidity does not affect other provisions or applications of this act that can be given effect
34 without the invalid provisions or application, and to this end the provisions of this act are
35 severable.
36

37 **SECTION 23.(b)** Prosecutions for offenses committed before the effective date of
38 this act are not abated or affected by this act, and the statutes that would be applicable but for
39 this act remain applicable to those prosecutions.

40 **SECTION 23.(c)** Except as otherwise provided, this act is effective when it becomes
41 law.