2021 Supplement - GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2021

SENATE BILL 183 RATIFIED BILL

AN ACT TO ELIMINATE THE MANDATORY WAITING PERIODS FOR DRIVERS LICENSE RESTORATION OR LIMITED DRIVING PRIVILEGES IF THE PERSON IS OPERATING A MOTOR VEHICLE THAT HAS A FUNCTIONING IGNITION INTERLOCK SYSTEM INSTALLED ON IT; TO REQUIRE FOR THE RESTORATION OF LICENSES AFTER CERTAIN DRIVING WHILE IMPAIRED CONVICTIONS, OR THE ISSUANCE OF LIMITED DRIVING PRIVILEGES, AN IGNITION INTERLOCK SYSTEM BE INSTALLED ON ONLY THE MOTOR VEHICLES THE PERSON WILL DRIVE; TO ELIMINATE THE RESTRICTIONS ON THE PURPOSES FOR DRIVING AND THE HOURS DURING WHICH A PERSON MAY OPERATE A MOTOR VEHICLE IF THE PERSON IS OPERATING A MOTOR VEHICLE WITH A FUNCTIONING IGNITION INTERLOCK SYSTEM INSTALLED ON IT; TO ALLOW THE WAIVER OR REDUCTION OF COSTS FOR CERTAIN PERSONS REQUIRED TO INSTALL AN IGNITION INTERLOCK SYSTEM; TO REVISE THE MAXIMUM BLOOD ALCOHOL CONCENTRATION LEVEL FOR THE OPERATION OF A MOTOR VEHICLE IN CERTAIN CIRCUMSTANCES TO THE IGNITION INTERLOCK SYSTEM PRE-SET FAIL LEVEL; TO REQUIRE THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY TO STUDY WHETHER TO EXPAND THE USE OF IGNITION INTERLOCK SYSTEMS; TO MAKE TECHNICAL AND CONFORMING CHANGES RELATED TO S.L. 2021-138; AND TO CHANGE "SHERIFF'S DEPARTMENT" TO "SHERIFF'S OFFICE" IN VARIOUS SECTIONS OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

PART I. MODIFICATIONS TO IGNITION INTERLOCK LAWS
SECTION 1.(a) G.S. 20-179.3(c1) is repealed.
SECTION 1.(b) G.S. 20-179.3, as amended by this act, reads as rewritten:

"**§ 20-179.3. Limited driving privilege.**

(b) Eligibility. –
(1) A person convicted of the offense of impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege ~~if:~~ if all of the following requirements are met:

a. At the time of the offense the person held either a valid driver's license or a license that had been expired for less than one ~~year;~~ year.
b. At the time of the offense the person had not within the preceding seven years been convicted of an offense involving impaired ~~driving;~~ driving.
c. Punishment Level Three, Four, or Five was imposed for the offense of impaired ~~driving;~~ driving.
d. Subsequent to the offense the person has not been convicted of, or had an unresolved charge lodged against the person for, an offense involving impaired ~~driving; and~~ driving.
e. The person has obtained and filed with the court a substance abuse assessment of the type required by G.S. 20-17.6 for the restoration of a drivers license.

A person whose North Carolina driver's license is revoked because of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1 is eligible for a limited driving privilege if the person would be eligible for it had the conviction occurred in North Carolina. Eligibility for a limited driving privilege following a revocation under G.S. 20-16.2(d) is governed by G.S. 20-16.2(e1).

(2) Any person whose licensing privileges are forfeited pursuant to G.S. 15A-1331.1 is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and <u>either of the following requirements is met:</u>

a. The person is supporting existing dependents or must have a drivers license to be gainfully ~~employed; or~~ employed.

b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege.

...

(g3) Ignition Interlock Allowed. – A judge may include all of the following in a limited driving privilege order:

(1) A restriction that the applicant may operate only a designated motor vehicle.

(2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

(3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

If the limited driving privilege order includes the restrictions set forth in this subsection, then the limitations set forth in subsections (a), (f), (g), (g1), and (g2) of this section do not apply when the person is operating the designated motor vehicle with a functioning ignition interlock system.

...

(g5) Ignition Interlock Required. – If a person's drivers license is revoked for a conviction of G.S. 20-138.1, and the person had an alcohol concentration of 0.15 or more, a judge shall include all of the following in a limited driving privilege order:

(1) A restriction that the applicant may operate only a designated motor vehicle.
(2) A requirement that the designated motor vehicle be equipped with a functioning ignition interlock system of a type approved by the Commissioner, which is set to prohibit driving with an alcohol concentration of greater than ~~0.00.~~ 0.02. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.
(3) (3) A requirement that the applicant personally activate the ignition interlock system before driving the motor vehicle.

If the limited driving privilege order includes the restrictions set forth in this subsection, then the limitations set forth in subsections (a), (f), (g), (g1), and (g2) of this section do not apply when the person is operating the designated motor vehicle with a functioning ignition interlock system. For purposes of this subsection, the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.

...

(l) Any judge granting limited driving privileges under this section shall, prior to granting such privileges, be furnished proof and be satisfied that the person being granted such privileges is financially responsible. Proof of financial responsibility shall be in one of the following forms:

(1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of ~~insurance or~~ insurance.

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. Such granting of limited driving privileges shall be conditioned upon the maintenance of such financial responsibility during the period of the limited driving privilege. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

SECTION 1.(c) G.S. 20-17.8 reads as rewritten:

"**§ 20-17.8. Restoration of a license after certain driving while impaired convictions; ignition interlock.**

(a) Scope. – This section applies to a person whose license was revoked as a result of a conviction of driving while impaired, G.S. 20-138.1, ~~and:~~ and any of the following conditions is met:

(1) The person had an alcohol concentration of 0.15 or ~~more;~~ more.

(2) The person has been convicted of another offense involving impaired driving, which offense occurred within seven years immediately preceding the date of the offense for which the person's license has been ~~revoked; or~~ revoked.

(3) The person was sentenced pursuant to G.S. 20-179(f3).

For purposes of subdivision (1) of this subsection, the results of a chemical analysis, as shown by an affidavit or affidavits executed pursuant to G.S. 20-16.2(c1), shall be used by the Division to determine that person's alcohol concentration.

...

(b) Ignition Interlock Required. – Except as provided in subsection (*l*) of this section, when the Division restores the license of a person who is subject to this section, in addition to any other restriction or condition, it shall require the person to agree to and shall indicate on the person's drivers license the following restrictions for the period designated in subsection (c):

(1) A restriction that the person may operate only a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not unreasonably withhold approval of an ignition interlock system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

(2) A requirement that the person personally activate the ignition interlock system before driving the motor vehicle.

(3) ~~An alcohol concentration restriction as follows:~~ A requirement that the person not drive with an alcohol concentration of 0.02 or greater.

~~a. If the ignition interlock system is required pursuant only to subdivision (a)(1) of this section, a requirement that the person not drive with an alcohol concentration of 0.04 or greater;~~
~~b. If the ignition interlock system is required pursuant to subdivision (a)(2) or (a)(3) of this section, or subsection (a1) of this section, a requirement that the person not drive with an alcohol concentration of greater than 0.00; or~~
~~c. If the ignition interlock system is required pursuant to subdivision (a)(1) of this section, and the person has also been convicted, based on the same set of circumstances, of: (i) driving while impaired in a commercial vehicle, G.S. 20-138.2, (ii) driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, (iii) a violation of G.S. 20-141.4, or (iv) manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, a requirement that the person not drive with an alcohol concentration of greater than 0.00.~~

(c1) Vehicles Subject to Requirement. – A person subject to this section shall have all designate in accordance with the policies of the Division any registered vehicles owned by that person that the person operates or intends to operate and have the designated vehicles equipped with a functioning ignition interlock system of a type approved by the Commissioner. The Commissioner shall not issue a license to a person subject to this section until presented with proof of the installation of an ignition interlock system in ~~all registered vehicles owned by the person. In order to avoid an undue financial hardship, a person subject to this section may seek a waiver from the Division for any vehicle registered to that person that is relied upon by another member of that person's family for transportation and that the vehicle is not in the possession of the person subject to this section. The Division shall determine such waiver on a case by case basis following an assessment of financial hardship to the person subject to this restriction.~~ at least one of the person's designated vehicles. The Commissioner shall cancel the drivers license of any person subject to this section for ~~registration of a motor vehicle owned by the person without an installed ignition interlock system~~ operating a vehicle that has not been designated and equipped with a functioning ignition interlock system in accordance with this subsection, or removal of the ignition interlock system from ~~a~~ any designated motor vehicle owned by the person, other than when changing ignition interlock providers or upon sale of the designated vehicle.

...

(j) Right to Hearing Before Division; Issues. – If the person's license is revoked pursuant to subsection (g) of this section, before the effective date of the order issued under subsection (i) of this section, the person may request in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the person's license was surrendered to the court and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the revocation period required by subsection (g) of this section. If the person properly requests a hearing, the person retains the person's license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the

hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must be conducted in the county where the charge was brought, except when the evidence of the violation is an alcohol concentration report from an ignition interlock system, the hearing may be conducted in the county where the person resides. The hearing must be limited to consideration of ~~whether:~~ whether both of the following conditions were met:

(1) The drivers license of the person had an ignition interlock ~~requirement; and~~ requirement.

(2) ~~The person:~~ Any of the following conditions occurred:

a. ~~Was~~ The person was driving a vehicle that was not equipped with a functioning ignition interlock ~~system; or~~ system.

b. ~~Did~~ The person did not personally activate the ignition interlock system before driving the ~~vehicle; or~~ vehicle.

c. ~~Drove the~~ The person was driving a vehicle in violation of an applicable alcohol concentration restriction prescribed by subdivision (b)(3) of this section.

d. The person was driving a vehicle that was not designated in accordance with subsection (c1) of this section.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that the condition of subdivision (1) is not met, or that none of the conditions of subdivision (2) are met, it must rescind the revocation. If the revocation is sustained, the person must surrender the

person's license immediately upon notification by the Division. If the revocation is sustained, the person may appeal the decision of the Division pursuant to G.S. 20-25.

...."

SECTION 1.(d) G.S. 20-19 reads as rewritten:

"§ 20-19. Period of suspension or revocation; conditions of restoration. ...

(c3) Restriction; Revocations. – When the Division restores a person's drivers license which was revoked pursuant to G.S. 20-13.2(a), G.S. 20-23 when the offense involved impaired driving, G.S. 20-23.2, subdivision (2) of G.S. 20-17(a), subdivision (1) or (9) of G.S. 20-17(a) when the offense involved impaired driving, G.S. 20-138.5(d), or this subsection, in addition to any other restriction or condition, it shall place the applicable restriction on the person's drivers license as follows:

(1) For the first restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S.20-138.1, that the person not operate a vehicle with an alcohol concentration of 0.04 or more at any relevant time after the ~~driving;~~ driving.

(2) For the second or subsequent restoration of a drivers license for a person convicted of driving while impaired, G.S. 20-138.1, or a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired under G.S. 20-138.1, that the person not operate a vehicle with an alcohol concentration greater than 0.00 at any relevant time after the ~~driving;~~ driving.

(3) For any restoration of a drivers license for a person convicted of ~~driving while impaired in a commercial motor vehicle, G.S. 20-138.2, habitual impaired driving, G.S. 20-138.5,~~ driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, felony death by vehicle, G.S. 20-141.4(a1), manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, or a revocation under this subsection, that the person not operate a vehicle with an alcohol concentration of greater than ~~0.00~~ 0.02 at any relevant time after the ~~driving;~~ driving.

(3a) For any restoration of a drivers license (i) for a person convicted of driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, or (ii) revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving.

(4) For any restoration of a drivers license revoked pursuant to G.S. 20-23 or G.S. 20-23.2 when the offense for which the person's license was revoked prohibits substantially similar conduct which if committed in this State would result in a conviction of driving while impaired in a commercial motor vehicle, G.S. 20-138.2, driving while less than 21 years old after consuming alcohol or drugs, G.S. 20-138.3, a violation of G.S. 20-141.4, or manslaughter or negligent homicide resulting from the operation of a motor vehicle when the offense involved impaired driving, that the person not operate a vehicle with an alcohol concentration of greater than 0.00 at any relevant time after the driving.

(5) For any restoration of a drivers license pursuant to G.S. 20-17.8 requiring an ignition interlock system, that the person not operate a vehicle with an alcohol concentration of 0.02 or more at any relevant time after the driving during the period that the ignition interlock is required.

In addition, the person seeking restoration of a license must agree to submit to a chemical analysis in accordance with G.S. 20-16.2 at the request of a law enforcement officer who has reasonable grounds to believe the person is operating a motor vehicle on a highway or public vehicular area ~~in violation of the restriction specified in this subsection.~~ while consuming alcohol or at any time while the person has remaining in the person's body any alcohol or controlled substance previously

consumed. The person must also agree that, when requested by a law enforcement officer, the person will agree to be transported by the law enforcement officer to the place where chemical analysis is to be administered.

The restrictions placed on a license under this subsection shall be in effect (i) seven years from the date of restoration if the person's license was permanently revoked, (ii) until the person's twenty-first birthday if the revocation was for a conviction under G.S. 20-138.3, and (iii) three years in all other cases.

A law enforcement officer who has reasonable grounds to believe that a person has violated a restriction placed on the person's drivers license shall complete an affidavit pursuant to G.S. 20-16.2(c1). On the basis of information reported pursuant to G.S. 20-16.2, the Division shall revoke the drivers license of any person who violates a condition of reinstatement imposed under this subsection. An alcohol concentration report from an ignition interlock system shall not be used as the basis for revocation under this subsection. A violation of a restriction imposed under this subsection or the willful refusal to submit to a chemical analysis shall result in a one-year revocation. If the period of revocation was imposed pursuant to subsection (d) or (e), or G.S. 20-138.5(d), any remaining period of the original revocation, prior to its reduction, shall be reinstated and the one-year revocation begins after all other periods of revocation have terminated.

...

(c5) Right to Hearing Before Division; Issues. – Upon receipt of a properly executed affidavit required by G.S. 20-16.2(c1), the Division must expeditiously notify the person charged that the person's license to drive is revoked for the period of time specified in this section, effective on the thirtieth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that the person's license was surrendered to the court and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the revocation period required by this section. If the person properly requests a hearing, the person retains the person's license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena

the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing must be conducted in the county where the charge was brought, and must be limited to consideration of ~~whether:~~ whether all of the following conditions exist:

(1) The charging officer had reasonable grounds to believe that the person had violated the alcohol concentration ~~restriction;~~ restriction.

(2) The person was notified of the person's rights as required by ~~G.S. 20-16.2(a);~~ G.S. 20-16.2(a).

(3) The drivers license of the person had an alcohol concentration ~~restriction; and~~ restriction.

(4) The person submitted to a chemical analysis upon the request of the charging officer, and the analysis revealed an alcohol concentration in excess of the restriction on the person's drivers license.

If the Division finds that the conditions specified in this subsection are met, it must order the revocation sustained. If the Division finds that any of the conditions (1), (2), (3), or (4) is not met, it must rescind the revocation. If the revocation is sustained, the person must surrender the person's license immediately upon notification by the Division.

...

(d) When a person's license is revoked under (i) G.S. 20-17(a)(2) and the person has another offense involving impaired driving for which ~~he~~ the person has been convicted, which offense occurred within three years immediately preceding the date of the offense for which his the person's license is being revoked, or (ii) G.S.20-17(a)(9) due to a violation of G.S. 20-141.4(a3), the period of revocation is four years, and this period may be reduced only as provided in this section. The Division may conditionally

restore the person's license after it has been revoked for at least two years under this subsection if ~~he~~ the person provides the Division with satisfactory proof ~~that:~~ that both of the following requirements are met:

(1) ~~He~~ The person has not in the period of revocation been convicted in North Carolina or any other state or federal jurisdiction of a motor vehicle offense, an alcoholic beverage control law offense, a drug law offense, or any other criminal offense involving the possession or consumption of alcohol or drugs; anddrugs.

(2) ~~He~~ The person is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance. The person may voluntarily submit themselves to continuous alcohol monitoring for the purpose of proving abstinence from alcohol consumption during a period of revocation immediately prior to the restoration consideration. All of the following requirements apply when providing proof that the requirement set forth in this subdivision has been met:

a. Monitoring periods of 120 days or longer shall be accepted by the Division as evidence of abstinence if the Division receives sufficient documentation that reflects that the person abstained from alcohol use during the monitoring period.

b. The continuous alcohol monitoring system shall be a system approved under G.S. 15A-1343.3.

c. The Division may establish guidelines for the acceptance of evidence of abstinence under this subdivision.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for the duration of the original revocation period.

...

(e1) Notwithstanding subsection (e) of this section, the Division may conditionally restore the license of a person to whom subsection (e) applies after it has been revoked for at least three years under subsection (e) if the person provides the Division with satisfactory proof of all of the following:

(1) In the three years immediately preceding the person's application for a restored license, the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or drugs.

(2) The person is not currently an excessive user of alcohol, drugs, or prescription drugs, or unlawfully using any controlled substance. The person may voluntarily submit themselves to continuous alcohol monitoring for the purpose of proving abstinence from alcohol consumption during a period of revocation immediately prior to the restoration consideration. All of the following requirements apply when providing proof that the requirement set forth in this subdivision has been met:

a. Monitoring periods of 120 days or longer shall be accepted by the Division as evidence of abstinence if the Division receives sufficient documentation that reflects that the person abstained from alcohol use during the monitoring period.

b. The continuous alcohol monitoring system shall be a system approved under G.S. 15A-1343.3.

c. The Division may establish guidelines for the acceptance of evidence of abstinence under this subdivision.

(i) When a person's license is revoked under G.S. 20-17(a)(1) or G.S. 20-17(a)(9), and the offense is one involving impaired driving and a fatality, the revocation is permanent. The Division may, however, conditionally restore the person's license after it has been revoked for at least five years under this subsection if ~~he~~ the person provides the Division with satisfactory proof ~~that:~~ that both of the following requirements are met:

(1) In the five years immediately preceding the person's application for a restored license, he the person has not been convicted in North Carolina or in any other state or federal court of a motor vehicle offense, an alcohol beverage control law offense, a drug law offense, or any criminal offense involving the consumption of alcohol or ~~drugs; and~~ drugs.

(2) ~~He~~ The person is not currently an excessive user of alcohol or drugs.

If the Division restores the person's license, it may place reasonable conditions or restrictions on the person for any period up to seven years from the date of restoration.

...

(k) Before the Division restores a driver's license that has been suspended or revoked under G.S. 20-138.5(d), or under any provision of this Article, other than G.S. 20-24.1, the person seeking to have ~~his~~ the person's driver's license restored shall submit to the Division proof that ~~he~~ the person has notified ~~his~~ the person's insurance agent or company ~~of his~~ that the person is seeking the restoration and that he the person is financially responsible. Proof of financial responsibility shall be in one of the following forms:

(1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of ~~insurance or~~ insurance.

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private

passenger motor vehicle liability policy.

~~The preceding provisions~~ Subdivisions (1) and (2) of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the restoration application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purposes of this subsection, the term "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner. The financial responsibility required by this subsection shall be kept in effect for not less than three years after the date that the license is restored. Failure to maintain financial responsibility as required by this subsection shall be grounds for suspending the restored driver's license for a period of ~~thirty (30)~~ 30 days. Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

SECTION 1.(e) Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-179.5. Affordability of ignition interlock system.

(a) Payment of Costs. – The costs incurred in order to comply with the ignition interlock requirements imposed by the court or the Division pursuant to this Chapter, including costs for installation and monitoring of the ignition interlock system, shall be paid by the person ordered to install the system. Costs for installation and monitoring of the ignition interlock system shall be collected under terms agreed upon by the ignition interlock system vendor and the person required to install the ignition interlock system.

(b) Waiver. – A person who is ordered by a court, or required by statute, to install an ignition interlock system in order to lawfully operate a motor vehicle, but who is unable to afford the cost of an ignition interlock system, may apply to an authorized vendor for a waiver of a portion of the costs of an ignition interlock system.

(c) Affidavit. – A person who applies for a waiver of a portion of the costs of an ignition interlock system under subsection (b) of this section shall provide to the vendor on a form affidavit created by the Division a statement (i) that the person's income is at or below one hundred fifty percent (150%) of the federal poverty line or (ii) that the person is enrolled in any of the following public assistance programs:

(1) Temporary Assistance for Needy Families (TANF).

(2) Supplemental Security Income (SSI).

(3) Supplemental Nutrition Assistance Program (SNAP).

(4) Low Income Home Energy Assistance Program (LIHEAP).

(5) Medicaid.

(d) Supporting Documentation. – A person who submits an affidavit under subsection (c) of this section shall provide to the vendor documentation confirming the statement set out in the affidavit. A person may establish the person's income for purposes of this subsection by providing any of the following:

(1) A copy of the person's federal tax return for the previous year.

(2) A copy of the person's IRS Form W-2 for the previous year.

(3) A copy of the person's pay stubs or monthly income statements for the three months immediately preceding the date of application under subsection (b) of this section.

(4) A verification of unemployment benefits paid to the person for the three months immediately preceding the date of application under subsection (b) of this section.

(e) Reduction of Costs. – A vendor who receives a waiver under subsection (b) of this section that complies with the requirements of subsections (c) and (d) of this section shall install the ignition interlock system in accordance with both of the following terms:

(1) The applicant shall not be required to pay for installation or removal of the ignition interlock system or systems.

(2) The applicant shall receive a fifty percent (50%) discount on the monthly service rate charged to persons who are not granted a waiver under this section.

(f) Review of Denial. – An applicant denied a waiver of ignition interlock system costs under this section may seek review by the Division of the vendor's determination. The Division shall adopt rules to govern its review under this subsection."

SECTION 1.(f) The Division of Motor Vehicles shall adopt temporary rules to implement the provisions of G.S. 20-179.5, as enacted by subsection (e) of this section. Temporary rules adopted in accordance with this subsection shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 1.(g) By June 1, 2022, the Division of Motor Vehicles shall develop the form required under G.S. 20-179.5(c), as enacted by subsection (e) of this section, and make it available on the Division's website.

SECTION 1.(h) The Joint Legislative Oversight Committee on Justice and Public Safety (Committee) shall study whether the use of an ignition interlock system as a condition of a limited driving privilege should be expanded to include additional convictions and whether ignition interlock requirements should apply to limited driving privileges granted pretrial and granted to permit driving during the period of a revocation for refusal to submit to chemical testing. The Committee shall also study whether the Division of Motor Vehicles, rather than the courts, should be authorized to grant limited driving privileges and to supervise the

use of ignition interlocks pursuant to that authority. The Committee shall report its findings, including any proposed legislation, prior to the convening of the 2022 Regular Session of the 2021 General Assembly.

SECTION 1.(i) Prosecutions for offenses committed before the effective dates of the subsections of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

SECTION 1.(j) Subsection (a) of this section becomes effective December 1, 2021, and applies to limited driving privileges issued on or after that date. Subsections (b) through (f) of this section become effective June 1, 2022, and apply to limited driving privileges issued and drivers licenses restored on or after that date.

PART II. TECHNICAL AND CONFORMING CHANGES RELATED TO S.L. 2021-138 SECTION 2.(a) G.S. 14-208.40(a), as amended by Section 18(c) of S.L. 2021-138, reads as rewritten:

"(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 reoffender, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6 ~~and based on the Division of Adult Correction and Juvenile Justice's risk assessment program~~ requires the highest possible level of supervision and ~~monitoring.~~ monitoring, as determined by a court.

(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~~ (iv) requires the highest possible level of supervision and ~~monitoring.~~ monitoring, as determined by a court.

(3) Any offender who is convicted of G.S. 14-27.23 or G.S. 14-27.28 and ~~based on the Division of Adult Correction and Juvenile Justice's risk assessment program~~ requires the highest possible level of supervision and ~~monitoring.~~ monitoring, as determined by a court."

SECTION 2.(b) G.S. 14-208.40A, as amended by Section 18(d) of S.L. 2021-138, reads as rewritten:

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

...

(c) If the court finds that the offender has been classified as a sexually violent predator, is a 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 Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

(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,~~ assessment and all relevant evidence, 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.

(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 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 up to 60 days to complete the risk assessment of the offender and report the results to

the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

(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,~~ assessment and all relevant evidence, 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."

SECTION 2.(c) G.S. 14-208.40B, as amended by Section 18(e) of S.L. 2021-138, 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 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 Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 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.~~

~~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 reoffender, the court shall order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.~~

~~Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice, 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."~~

SECTION 2.(d) G.S. 14-208.43, as amended by Section 18(h) of S.L. 2021-138, reads as rewritten:

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

(a) An offender ~~described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3)~~ who ~~is required to submit to~~ ordered on or after December 1, 2021, to enroll in satellite-based monitoring monitoring may file a petition for termination or modification of the monitoring requirement with the superior court in the county where the conviction occurred five years after the date of initial enrollment.

...

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

(1) The petitioner has been enrolled in the satellite-based monitoring program for at least five years.

(2) The petitioner no longer requires the highest possible level of supervision and ~~monitoring for 10 years.~~ monitoring for the period initially ordered.

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

(1) The petitioner to remain enrolled in the satellite-based monitoring program for a period of ~~time~~ less than the period initially ordered, to be specified by the ~~court, not to exceed a total of 10 years.~~ court.

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

(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 court has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14-208.40(a)(2)."~~

SECTION 2.(e) G.S. 14-208.46, as enacted by Section 18(i) of S.L. 2021-138, reads as rewritten:

"§ 14-208.46. Petition for postenrollment post enrollment determination for lifetime satellite-based monitoring enrollees.

(a) An offender who ~~is enrolled~~ was ordered prior to December 1, 2021, to enroll in a satellite-based ~~monitoring for life~~ monitoring for a period longer than 10 years may file a petition for termination or modification of the monitoring requirement with the superior court in the county where the conviction ~~occurred five years after the date of initial enrollment.~~ occurred.

...

(f) The court has no authority to terminate the satellite-based monitoring requirement for an offender ~~ordered to satellite-based monitoring for life~~ filing a petition pursuant to this section prior to 10 years of enrollment."

SECTION 2.(f) G.S. 15A-1343, as amended by Section 18(j) of S.L. 2021-138, reads as rewritten:

"§ 15A-1343. Conditions of probation.

...

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

...

(6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2), and based on ~~the Division of Adult Correction and Juvenile Justice's risk assessment program~~ a court's determination, requires the highest possible level of supervision and monitoring.

...

(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

...

(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(1), and the ~~Division of Adult Correction and Juvenile Justice of the Department of Public Safety,~~ based on ~~the Division's risk assessment program, recommends that the defendant~~ a court's determination, is required to submit to the highest possible level of supervision and monitoring.

...."

SECTION 2.(g) G.S. 15A-1343.2, as amended by Section 18(k) of S.L. 2021-138, reads as rewritten:

"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.

(a) Applicability. – This section applies only to persons sentenced under Article 81B of this Chapter.

...

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

...

(5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program a court's determination, requires the highest possible level of supervision and monitoring.

...

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

...

(f1) Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders. – Notwithstanding any other provision of this section, the court shall impose satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition of probation on any offender who is described by G.S. 14-208.40(a)(1), and based on ~~the Division of Adult Correction and Juvenile Justice's risk assessment program~~ a court's determination, requires the highest possible level of supervision and monitoring.

...."

SECTION 2.(h) G.S. 15A-1368.4(b1), as amended by Section 18(m) of S.L. 2021-138, reads as rewritten:

"(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the required condition set forth in subsection (b) of this section, for a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may result in revocation of post-release supervision, are:

...

(6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4), the supervisee is in the category described by G.S. 14-208.40(a)(1), and based on ~~the Division of Adult Correction and Juvenile Justice's risk assessment program~~ a court's determination, requires the highest possible level of supervision and monitoring.

(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by G.S. 14-208.6(4), the supervisee is in the category described by G.S. 14-208.40(a)(2), and based on ~~the Division of Adult Correction and Juvenile Justice's risk assessment program~~ a court's determination, requires the highest possible level of supervision and monitoring.

...."

SECTION 2.(i) G.S. 15A-1374(b1), as amended by Section 18(n) of S.L. 2021-138, reads as rewritten:

"(b1) ~~Mandatory~~ Satellite-Based Monitoring Required as Condition of Parole for Certain Offenders. – If a parolee is in a category described by G.S.14-208.40(a)(1) or G.S. 14-208.40(a)(2) and based on ~~the Division of Adult Correction and Juvenile Justice's risk assessment program~~ a court's determination requires the highest possible level of supervision and monitoring, the Commission must require as a condition of parole that the parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes."

SECTION 2.(j) Section 18(p) of S.L. 2021-138 reads as rewritten:

"**SECTION 18.(p)** Subsection (b) of this section applies to satellite-based monitoring determinations on or after December 1, 2021, and includes felony convictions obtained before, on, or after that date. Subsection (h) of this section becomes effective December 1, 2021, and applies to any individual ordered to enroll in satellite-based monitoring on or after that date. Subsection (i) of this section becomes effective December 1, 2021, and applies to any individual ~~required to enroll~~ ordered to enroll in satellite-based monitoring ~~for life on or after that date.~~ pursuant to a court order issued prior to that date. Subsection (o) of this section becomes effective December 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 that date. The remainder of this section becomes effective December 1, 2021, and applies to satellite-based monitoring determinations on or after that date."

SECTION 2.(k) G.S. 14-27.23(b) reads as rewritten:

"(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be ~~enrolled~~ subject to enrollment in satellite-based monitoring ~~for life pursuant to~~ as provided in Part 5 of Article 27A of Chapter 14 of the General Statutes."

SECTION 2.(l) G.S. 14-27.28(b) reads as rewritten:

"(b) A person convicted of violating this section is guilty of a Class B1 felony and shall be sentenced pursuant to Article 81B of Chapter 15A of the General Statutes, except that in no case shall the person receive an active punishment of less than 300 months, and except as provided in subsection (c) of this section. Following the termination of active punishment, the person shall be enrolled subject to enrollment in satellite-based monitoring ~~for life pursuant to~~ as provided in Part 5 of Article 27A of Chapter 14 of the General Statutes."

SECTION 2.(m) Subsection (d) of this section becomes effective December 1, 2021, and applies to any individual ordered to enroll in satellite-based monitoring on or after that date. Subsection (e) of this section becomes effective December 1, 2021, and applies to any individual ordered to enroll in satellite-based monitoring prior to that date. The remainder of this section becomes effective December 1, 2021, and applies to satellite-based monitoring determinations on or after that date.

SECTION 2.5.(a) G.S. 15A-601, as amended by Section 14(a) of S.L. 2021-138, reads as rewritten:

"§ 15A-601. First appearance before a district court judge; consolidation of first appearance before magistrate and before district court judge; first appearance before clerk of superior court; use of two-way audio and video transmission.

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

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

...

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

(c) Unless the courthouse is closed for transactions for a period longer than 72 hours or the defendant is released pursuant to Article 26 of this Chapter, Bail, first appearance before a district court judge must be held within 72 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. If the courthouse is

closed for transactions for a period longer than 72 hours, the first appearance before a district court judge must be held within 96 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this Chapter, Bail, ~~within 72 hours after being taken into custody,~~ prior to a first appearance, the first appearance must be held at the next session of district court held in the county. This subsection does not apply to a defendant whose first appearance before a district court judge has been set in a criminal summons pursuant to G.S. 15A-303(d).

...

(e) The clerk of the superior court in the county in which the defendant is taken into custody may conduct a first appearance as provided in this Article if a district court judge is not available in the county within 72 hours after the defendant is taken into ~~custody. A magistrate may conduct the first appearance if the clerk is not available.~~ custody, or 96 hours after the defendant is taken into custody if the courthouse is closed for transactions for a period longer than 72 hours. The ~~clerk or magistrate,~~ clerk, in conducting a first appearance, shall proceed under this Article as would a district court judge."

SECTION 2.5.(b) G.S. 15A-534(d2) reads as rewritten:

"(d2) When conditions of pretrial release are being determined for a defendant who is charged with a felony offense and the defendant is currently on probation for a prior offense, a judicial official shall determine whether the defendant poses a danger to the public prior to imposing conditions of pretrial release and must record that determination in writing. This subsection shall apply to any judicial official authorized to determine or review the defendant's eligibility for release under any proceeding authorized by this Chapter.

(1) If the judicial official determines that the defendant poses a danger to the public, the judicial official must impose condition (4) or (5) in subsection (a) of this section instead of condition (1), (2), or (3).

(2) If the judicial official finds that the defendant does not pose a danger to the public, then conditions of pretrial release shall be imposed as otherwise provided in this Article.

(3) If there is insufficient information to determine whether the defendant poses a danger to the public, then the defendant shall be retained in custody until a determination of pretrial release conditions is made pursuant to this subdivision. The judicial official that orders that the defendant be retained in custody shall set forth, in writing, the following at the time that the order is entered:

a. The defendant is being held pursuant to this subdivision.

b. The basis for the judicial official's decision that additional information is needed to determine whether the defendant poses a danger to the public and the nature of the necessary information.

c. A date, ~~within 96 hours~~ 72 hours or 96 hours if the courthouse is closed for transactions for a period longer than 72 hours, of the time of arrest, when the defendant shall be brought before a judge for a first appearance pursuant to Article 29 of this Chapter. If the necessary information is provided to the court at any time prior to the first appearance, the first available judicial official shall set the conditions of pretrial release. The judge who reviews the defendant's eligibility for release at the first appearance shall determine the conditions of pretrial release as provided in this Article."

SECTION 2.5.(c) This section becomes effective December 1, 2021, and applies to criminal processes served on or after that date.

PART III. CHANGE "SHERIFF'S DEPARTMENT" TO "SHERIFF'S OFFICE" IN VARIOUS SECTIONS OF THE GENERAL STATUTES

SECTION 3.(a) G.S. 7B-500(b) reads as rewritten:

"(b) The following individuals shall, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant:

(1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.

(2) A law enforcement officer who is on duty or at a police station or sheriff's ~~department.~~ office.

(3) A social services worker who is on duty or at a local department of social services.

(4) A certified emergency medical service worker who is on duty or at a fire or emergency medical services station."

SECTION 3.(b) G.S. 17C-2 reads as rewritten: "§ 17C-2. Definitions.

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

...

(2) Criminal justice agencies. – The State and local law-enforcement agencies, the State correctional agencies, other correctional agencies maintained by local governments, and the juvenile justice agencies, but shall not include deputy sheriffs, special deputy sheriffs, sheriffs' jailers, or other sheriffs' department office personnel governed by the provisions of Chapter 17E of these General Statutes.

(3) Criminal justice officers. – The administrative and subordinate personnel of all the departments, offices, agencies, units or entities comprising the criminal justice agencies who are sworn law-enforcement officers, both State and local, with the power of arrest; State correctional officers; State probation/parole officers; State probation/parole officers-surveillance; officers, supervisory and administrative personnel of local confinement facilities; State juvenile justice officers; chief court counselors; and juvenile court counselors.

...."

SECTION 3.(c) G.S. 17E-4.1 reads as rewritten:

"§ 17E-4.1. Advisory powers of the Commission.

The Commission shall have the following powers, which shall be advisory in nature and for which the Commission is not authorized to undertake any enforcement actions:

(1) Certify, pursuant to the standards that it has established for the purpose, justice officers for those law-enforcement agencies that elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are ~~appropriate;~~ appropriate.

(2) Consult and cooperate with counties, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions, public or private, concerning the development of training schools and programs or courses of ~~instruction;~~ instruction.

(3) Study and make reports and recommendations concerning justice education and training in North ~~Carolina;~~ Carolina.

(4) Conduct and stimulate research by public and private agencies which shall be designed to improve education and training in the administration of ~~justice:~~ justice.

(5) Study, obtain data, statistics, and information and make reports concerning the recruitment, selection, education and training of persons serving justice agencies in this State; to make recommendations for improvement in methods of recruitment, selection, education and training of persons serving sheriffs' ~~departments;~~ offices.

(6) Study and make reports and recommendations to the Governor, Attorney General, Chief Justice, President of the Senate and Speaker of the House, concerning the manpower, salary and equipment needs of the sheriffs of the ~~State;~~ State.

(7) Make recommendations concerning any matters within its purview pursuant to this ~~Chapter;~~ Chapter.

(8) Appoint such advisory committees as it may deem ~~necessary;~~ necessary.

(9) Do such things as may be necessary and incidental to the administration of its authority pursuant to this ~~Chapter;~~ Chapter.

(10) Formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for the officers and employees of agencies consistent with its rules and ~~regulations;~~ regulations.

(11) Maintain liaison among municipal, State and federal agencies with respect to education and ~~training;~~ training.

(12) Promote the planning and development of a systematic career development program for sheriffs' department office personnel."

SECTION 3.(d) G.S. 17E-7(b) reads as rewritten:

"(b) The Commission shall provide, by regulation, that no person may be appointed as a justice officer at entry level, except on a temporary or probationary basis, unless such person has satisfactorily completed an initial preparatory program of training at a school certified by the Commission or has been exempted from that requirement by the Commission pursuant to this Chapter. Upon separation of a justice officer from a sheriff's ~~department~~ office within the temporary or probationary period of appointment, the probationary certification shall be terminated by the Commission. Upon the reappointment to the same ~~department~~ office or appointment to another ~~department~~ office of an officer who has separated from ~~a department~~ an office within the probationary period, the officer shall be charged with the amount of time served during his initial appointment and allowed the remainder of the probationary period to complete the basic training requirement. Upon the reappointment to the same ~~department~~ office or appointment to another ~~department~~ office of an officer who has separated from ~~a department~~ an office within the probationary period and who has remained out of service for more than one year from the date of separation, the officer shall be allowed another probationary period to complete such training as the Commission shall require by rule for an officer returning to service."

SECTION 3.(e) G.S. 18B-501(f) reads as rewritten:

"(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to a sheriff's department, office, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the designated officers of the contracting law-enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An agency contracted to provide ABC law enforcement shall designate no more than five officers to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement."

SECTION 3.(f) G.S. 58-32-1 reads as rewritten: "§ 58-32-1. Commission created; membership.

There is hereby created within the Department a Public Officers and Employees Liability Insurance Commission. The Commission shall consist of 11 members who shall be appointed as follows: the Commissioner shall appoint six members as follows: two members who are members of the insurance industry who may be chosen from a list of six nominees submitted to the Commissioner by the Independent Insurance Agents of North Carolina, Inc.; one member who is employed by a police department who may be chosen from a list of three nominees submitted to the Commissioner jointly by the North Carolina Police Chiefs Association and North Carolina Police Executives Association, and one member who is employed by a sheriff's ~~department~~ office who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Sheriff's Association; one member representing city government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina League of Municipalities; and one member representing county government who may be chosen from a list of three nominees submitted to the Commissioner by the North Carolina Association of County Commissioners; and the General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President Pro Tempore of the Senate. The Commissioner or the

Commissioner's designate shall be an ex officio member. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. The Secretary of the Department of Public Safety or the Secretary's designate shall be an ex officio member. The Attorney General or the Attorney General's designate shall be an ex officio member. One insurance industry member appointed by the Commissioner shall be appointed to a term of two years and one insurance industry member shall be appointed to a term of four years. The police department member shall be appointed to a term of two years and the sheriff's ~~department~~ office member shall be appointed to a term of four years. The representative of county government shall be appointed to a term of two years and the representative of city government to a term of four years. Beginning July 1, 1983, the appointment made by the General Assembly upon the recommendation of the Speaker shall be for two years, and the appointment made by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be for four years. Except as provided in this section, if any vacancy occurs in the membership of the Commission, the appointing authority shall appoint another person to fill the unexpired term of the vacating member. After the initial terms established herein have expired, all appointees to the Commission shall be appointed to terms of four years.

The Commission members shall elect the chair and vice-chair of the Commission. The Commission may, by majority vote, remove any member of the Commission for chronic absenteeism, misfeasance, malfeasance or other good cause."

SECTION 3.(g) G.S. 68-20 reads as rewritten:

"§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application of proceeds.

If the owner fails to redeem his livestock within three days after the notice and demand as provided in G.S. 68-18 is received or within three days after the determination of the costs and damages as provided in G.S. 68-19, the impounder shall notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's ~~department.~~ office. After 10 days from such posting, the impounder shall sell the livestock at public auction. If the owner of the livestock remains unknown to the impounder, then, three days after publication of the notice required by G.S. 68-18.1, the impounder shall notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's ~~department.~~ office. After 10 days from such

posting, the impounder shall sell the livestock at public auction. The proceeds of any such public sale shall be applied to pay the reasonable costs of impounding and maintaining the livestock and the damages to the impounder caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in an attempt to locate the owner of the livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of the county where the livestock was impounded."

SECTION 3.(h) G.S. 90-95.2(b)(2) reads as rewritten:

"(2) "Law-enforcement agency" means any State or local agency, force, department, or unit responsible for enforcing criminal laws in this State, including any local police department or sheriff's ~~department.~~ office."

SECTION 3.(i) G.S. 132-1.4(b)(3) reads as rewritten:

"(3) "Public law enforcement agency" means a municipal police department, a county police department, a sheriff's department, office, a company police agency commissioned by the Attorney General pursuant to G.S. 74E-1, et seq., and any State or local agency, force, department, or unit responsible for investigating, preventing, or solving violations of the law."

SECTION 3.(j) G.S. 143B-216.34(c) reads as rewritten:

"(c) The central communications office of each county sheriff's department office shall purchase and continually operate at least one telecommunications device that is functionally equivalent in providing equal access to services for individuals who are deaf, hard of hearing, deaf-blind, and speech impaired.

The central communications office of each police department and firefighting agency in municipalities with a population of 25,000 to 250,000 shall purchase and continually operate at least one such device.

The central communications office of each police department and firefighting agency in municipalities with a population exceeding 250,000 persons shall purchase and continually operate at least two such devices."

PART IV. EFFECTIVE DATE

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of November, 2021.

EVIDENCE AND DISTRICT COURT SPEEDY TRIALS

SECTION 16.17.(a) The General Assembly finds all of the following:

(1) All criminal defendants have the right to court proceedings free from unreasonable delay, a right that is in jeopardy due to a perpetual district court case backlog, one which has been exacerbated by the COVID-19 pandemic.

(2) All criminal defendants have the right to court proceedings free from unreasonable delay, a right that is jeopardized when a district court case backlog exists.

(3) The North Carolina court system is bifurcated into the district and superior courts, and due to this bifurcation, the district courts function essentially as a preliminary proceeding that assures that the prosecution of a criminal defendant proceeds without the unreasonable delay that would be unavoidable if the district courts did not exist.

(4) The bifurcation of the North Carolina court system provides a criminal defendant with the unique opportunity to a "second bite of the apple" in the defendant's case.

(5) In superior court a defendant may exercise the defendant's right to a trial by jury, along with other rights, the exercise of which is unavailable in district court.

(6) The legal protections from being placed twice in jeopardy for the same conduct preclude the State from appealing an unfavorable outcome at trial in district court.

(7) A criminal defendant in a case before the district court may request, prior to trial, to have the case transferred to the superior court and may appeal to the superior court for a trial de novo following a final disposition in district court, retaining all rights that had previously been afforded the criminal defendant in district court.

(8) Though preliminary in nature, a district court can issue a final and binding disposition in a case before it.

(9) In a criminal proceeding in district court, the finder of fact is the district court judge presiding over the proceeding, who is legally trained to weigh the credibility, relevance, and veracity of evidence, including witness testimony.

(10) Simultaneous, two-way audio and video remote testimony in real time using state of the art technology allows a defendant to observe and cross-examine a witness, a district court judge to observe and question a witness to weigh the credibility and veracity of the witness's testimony, and a witness to observe a defendant against whom the witness is testifying.

(11) A witness in any court proceeding is one who, being duly sworn or affirmed, testifies as to the witness's knowledge of specific facts relevant to the case for which the witness testifies.

(12) A forensic or chemical analyst, and each person in the chain of custody of evidence produced by the analyst, does not play a role in initiating a criminal charge against a criminal defendant or in deciding whether or not to prosecute a criminal defendant.

(13) The testimony of a forensic or chemical analyst is based upon objective, scientifically based testing that allows the analyst to reach dispassionate conclusions that may be presumed reliable and trustworthy.

(14) The testimony of a witness called to establish the chain of custody of evidence is not adversarial in nature and merely conveys the fact of a ministerial function performed by the witness in the course of the witness's work.

(15) In order to safeguard a criminal defendant's right to proceedings free from unreasonable delay, it is reasonable and prudent to allow forensic and chemical analysts, and each person in the chain of custody of evidence produced by the analysts, to provide real-time, remote, two-way audio and video testimony before the district courts of this State using state of the art technology and equipment that enable the criminal defendant, the judge, and the attorneys in the case to observe the demeanor of the forensic analyst throughout the direct examination and cross-examination of the forensic analyst and that enable the forensic analyst to likewise observe the demeanor of the criminal defendant.

SECTION 16.17.(b) G.S. 8-58.20 reads as rewritten:

"§ 8-58.20. Forensic analysis admissible as evidence.

(a) In any criminal prosecution, a laboratory report of a written forensic analysis, including an analysis of the defendant's DNA, or a forensic sample alleged to be the defendant's DNA, as that term is defined in G.S. 15A-266.2(2), that states the results of the analysis and that is signed and sworn to by the person performing the analysis may shall be admissible in evidence without the testimony of the analyst who prepared the report in accordance with the requirements of this section.

...

(g) Procedure for Establishing Chain of Custody of Evidence Subject to Forensic Analysis Without Calling Unnecessary Witnesses. –

...

Nothing in this subsection precludes the right of any party to call any witness or witness,

except an analyst regarding the results of forensic testing and the testimony of each person in the associated chain of custody made available via remote testimony in real time in district court pursuant to G.S. 15A-1225.3. Nothing in this subsection precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in the statement.

...."

SECTION 16.17.(c) G.S. 15A-1225.3 reads as rewritten:

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

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

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

(1a) District court proceeding. – Any hearing or trial in district court in a prosecution of a person charged with violating a criminal law of this State.

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

(b) Remote Testimony Authorized. in Real Time Authorized for Criminal Proceeding. – In any criminal proceeding, the testimony of an analyst regarding the results of forensic testing

admissible pursuant to G.S. 8-58.20, and reported by that analyst, shall be permitted by remote testimony if all of the following occur:

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

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

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

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

(b1) Remote Testimony in Real Time Authorized in District Court. – In any district court proceeding, the testimony of an analyst regarding the results of forensic testing admissible pursuant to G.S. 8-58.20, and reported by that analyst, and the testimony of each person in the associated chain of custody admissible pursuant to G.S. 8-58.20(g) shall be permitted by remote testimony if each of the following occurs:

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

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

Nothing in this subsection shall be construed to determine the admissibility of evidence in a criminal proceeding in superior court, including a trial de novo pursuant to G.S. 15A-1431.

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

(d) Nothing in this section shall preclude the right of any party to call any witness.witness, except an analyst regarding the results of forensic testing and the testimony of each person in the associated chain of custody made available via remote testimony in real time in a district court proceeding pursuant to subsection (b1) of this section.

(e) Nothing in this section shall obligate the Administrative Office of the Courts or the State Crime Laboratory to incur expenses related to remote testimony absent an appropriation of funds for that purpose."

SECTION 16.17.(d) G.S. 20-139.1 reads as rewritten:

"§ 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary

provisions; controlled-drinking programs.

...

(c1) Admissibility. – The results of a chemical analysis of blood or urine reported by the North Carolina State Crime Laboratory, the Charlotte, North Carolina, Police Department Laboratory, or any other laboratory approved for chemical analysis by the Department of Health and Human Services (DHHS), are admissible as evidence in all administrative hearings, and in any court, without further authentication and without the testimony of the analyst. For the purposes of this section, a "laboratory approved for chemical analysis" by the DHHS includes, but is not limited to, any hospital laboratory approved by DHHS pursuant to the program resulting from the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA).

The results shall be certified by the person who performed the analysis. The provisions of this subsection may be utilized in any administrative hearing, but can only be utilized in cases tried in the district and superior court divisions, or in an adjudicatory hearing in juvenile court, if:

(1) The State notifies the defendant no later than 15 business days after receiving the report and at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, anddefendant.

(2) The defendant fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the report would be used that the defendant objects to the introduction of the report into evidence.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the objection shall be deemed waived and the report shall be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence.

If the proceeding at which the report would be introduced into evidence under this subsection is continued, the notice provided by the State, the written objection filed by the defendant, or the failure of the defendant to file a written objection shall remain effective at any subsequent calendaring of that proceeding.

The report containing the results of any blood or urine test may be transmitted electronically or via facsimile. A copy of the affidavit sent electronically or via facsimile shall be admissible in any court or administrative hearing without further authentication. A copy of the report shall be sent to the charging officer, the clerk of superior court in the county in which the criminal charges are pending, the Division of Motor Vehicles, and the Department of Health and Human Services.

Nothing in this subsection precludes the right of any party to call any witness witness, except a chemical analyst in district court as provided in subsection (c6) of this section, or to introduce any evidence supporting or contradicting the evidence contained in the report.

...

(c3) Procedure for Establishing Chain of Custody Without Calling Unnecessary Witnesses. –

... (4)

...

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Nothing in this subsection precludes the right of any party to call any witness or witness, except an analyst regarding the results of chemical testing and the testimony of each person in the associated chain of custody made available via remote testimony in real time in district court pursuant to subsection (c6) of this section. Nothing in this subsection precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in the statement.

(c5) The Except as provided in subsection (c6) of this section, testimony of an analyst regarding the results of a chemical analysis of blood or urine admissible pursuant to subsection (c1) of this section, and reported by that analyst, shall be permitted by remote testimony, as defined in G.S. 15A-1225.3, in all administrative hearings, and in any superior court if all of the following occur:

...

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to

file a written objection as provided in this subsection, then the objection shall be deemed waived and the analyst shall be allowed to testify by remote testimony.

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

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

(c6) The testimony of an analyst regarding the results of a chemical analysis of blood or urine admissible pursuant to subsection (c1) of this section, and reported by that analyst, and the testimony of each person in the associated chain of custody

admissible pursuant to subsection (c3) of this section shall be permitted by remote testimony, as defined in G.S. 15A-1225.3, in district court, if each of the following occurs:

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

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

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

Nothing in this subsection shall obligate the Administrative Office of the Courts or the State Crime Laboratory to incur expenses related to remote testimony absent an appropriation of funds for that purpose.

Nothing in this subsection shall preclude the right of any party to call any witness, except an analyst regarding the results of chemical testing and the testimony of each person in the associated chain of custody made available via remote testimony in real time in district court pursuant to this subsection.

...

(e2) Except as governed by subsection (c1) or (c3) of this section, the State can only use the provisions of subsection (e1) of this section if:

(1) The State notifies the defendant no later than 15 business days after receiving the affidavit and at least 15 business days before the proceeding at which the affidavit would be used of its intention to introduce the affidavit into evidence

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under this subsection and provides a copy of the affidavit to the defendant,

anddefendant. ...

The failure to file a timely objection as provided in this subsection shall be deemed a waiver of the right to object to the admissibility of the affidavit, and the affidavit shall be admitted into evidence without the testimony of the analyst. Upon filing a timely objection, the admissibility of the report shall be determined and governed by the appropriate rules of evidence. The case shall be continued until the analyst can be present. The criminal case shall not be dismissed due to the failure of the analyst to appear, unless the analyst willfully fails to appear after being ordered to appear by the court. If the proceeding at which the affidavit would be introduced into evidence under this subsection is continued, the notice provided by the State, the written objection filed by the defendant, or the failure of the defendant to file a written objection shall remain effective at any subsequent calendaring of that proceeding.

Nothing in subsection (e1) or subsection (e2) of this section precludes the right of any party to call any witness or witness, except an analyst regarding the results of chemical testing and the testimony of each person in the associated chain of custody made available via remote testimony in real time in district court pursuant to subsection (c6) of this section. Nothing in subsection (e1) or subsection (e2) of this section precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in the affidavit.

...."

SECTION 16.17.(e) This section becomes effective January 1, 2022, and applies to

criminal proceedings, administrative hearings, and adjudicatory hearings in juvenile court beginning on or after that date.