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HOUSE BILL DRH10226-ML-135

Short Title: Juvenile Justice Legislative Proposals.

(Public)

Sponsors: Representative Davis.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO EXTEND TERMS OF PROBATION AND POST-RELEASE SUPERVISION
FOR YOUTH ADJUDICATED OF CERTAIN VIOLENT OFFENSES AND TO CLARIFY
A VICTIM'S RIGHT TO BE NOTIFIED ABOUT TERMINATION OF PROBATION OR
POST-RELEASE SUPERVISION; TO MODIFY THE CRITERIA FOR SECURE
CUSTODY TO CLARIFY THAT A SUPERIOR COURT JUDGE MAY ENTER A
SECURE CUSTODY ORDER FOLLOWING THE REMOVAL OF A CASE TO
JUVENILE COURT AND TO AUTHORIZE THE ISSUANCE OF A SECURE CUSTODY
ORDER IN RESPONSE TO THE VIOLATION OF A CHAPTER 50B DOMESTIC
VIOLENCE PROTECTIVE ORDER; TO CLARIFY THAT ALL FELONY SCHOOL
NOTIFICATIONS ARE LIMITED TO CLASS A THROUGH CLASS E FELONIES; TO
EXTEND THE RETENTION PERIOD FOR CLOSED COMPLAINTS TO ALLOW FOR
REVIEW BY THE PROSECUTOR; TO CREATE A CRIMINAL OFFENSE FOR
ESCAPING FROM A JUVENILE JUSTICE FACILITY OR OFFICER; TO CLARIFY
AND MAKE TECHNICAL CORRECTIONS TO THE JUVENILE CAPACITY TO
PROCEED PROCESS; AND TO CLARIFY THE PLACE OF CONFINEMENT FOR
PERSONS UNDER EIGHTEEN YEARS OF AGE WHO ARE SENTENCED TO
IMPRISONMENT IN THE DEPARTMENT OF ADULT CORRECTION, AS
RECOMMENDED BY THE DIVISION OF JUVENILE JUSTICE AND DELINQUENCY
PREVENTION OF THE DEPARTMENT OF PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

**PART I. EXTEND TERMS OF PROBATION AND POST-RELEASE SUPERVISION
FOR YOUTH ADJUDICATED OF CERTAIN VIOLENT OFFENSES AND CLARIFY A
VICTIM'S RIGHT TO BE NOTIFIED ABOUT TERMINATION OF PROBATION OR
POST-RELEASE SUPERVISION**

SECTION 1.(a) G.S. 7B-2510 reads as rewritten:

"§ 7B-2510. Conditions of probation; violation of probation.

...

(c) An order of probation shall remain in force for a period not to exceed one year from the date entered. ~~Prior-Except as otherwise provided in subsection (c1) of this section, prior~~ expiration of an order of probation, the court may extend it for an additional period of one year after notice and a hearing, if the court finds that the extension is necessary to protect the community or to safeguard the welfare of the juvenile. At the discretion of the court, the hearing to determine to extend probation may occur after the expiration of an order of probation at the next regularly scheduled court date or if the juvenile fails to appear in court.



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(c1) Prior to expiration of an order of probation entered for an adjudication of an offense that would be a Class A, B1, or B2 felony if committed by an adult, the court may extend the term of probation for additional periods of up to one year after notice and a hearing, if the court finds that the extension is necessary to protect the community or to safeguard the welfare of the juvenile. The total period of probation entered for an adjudication of an offense that would be a Class A, B1, or B2 felony if committed by an adult shall not exceed three years. At the discretion of the court, the hearing to determine to extend probation may occur after the expiration of an order of probation at the next regularly scheduled court date or if the juvenile fails to appear in court.

(d) ~~On motion of the juvenile court counselor or counselor,~~ the juvenile, the prosecutor, or on the court's own motion, the court may review the progress of any juvenile on probation at any time during the period of probation or at the end of probation. The conditions or duration of probation may be modified only as provided in this Subchapter and only after notice and a hearing.

...."

SECTION 1.(b) G.S. 7B-2511 reads as rewritten:

"§ 7B-2511. Termination of probation.

At the end of or at any time during probation, the court may terminate probation by written order upon finding that there is no further need for supervision. ~~The~~ Except for cases that involve a victim as defined in Article 20A of this Chapter, the finding and order terminating probation may be entered in chambers in the absence of the juvenile and may be based on a report from the juvenile court counselor or, at the election of the court, the order may be entered with the juvenile present after notice and a hearing. In cases involving a victim as defined in Article 20A of this Chapter, the order may be entered with the juvenile present after notice and a hearing. If a victim has requested to be notified of court proceedings pursuant to G.S. 7B-2053, the court shall provide notice to the victim and the opportunity to be heard at the hearing by the prosecutor, the victim, or the person who may assert the victim's rights as set forth in Article 20A of this Chapter."

SECTION 1.(c) G.S. 7B-2514 reads as rewritten:

"§ 7B-2514. Post-release supervision planning; release.

...

(b) The Division shall develop the plan in writing and base the terms on the needs of the juvenile and the protection of the public. ~~Every~~ Except as otherwise provided in subsection (b1) of this section, every plan shall require the juvenile to complete at least 90 days, but not more than one year, of post-release supervision.

(b1) Every plan developed for an offense that would be a Class A, B1, B2, or C felony if committed by an adult shall require the juvenile to complete three years of post-release supervision. The Division shall develop the plan in writing and base the terms on the needs of the juvenile and the protection of the public.

...

(g) A juvenile on post-release supervision shall be supervised by a juvenile court counselor. Post-release supervision shall be terminated by order of the court. For plans developed pursuant to subsection (b1) of this section, post-release supervision may be terminated with the juvenile present after notice and a hearing. If a victim has requested to be notified of court proceedings pursuant to G.S. 7B-2053, the court shall provide notice to the victim and the opportunity to be heard at the hearing by the prosecutor and the victim or the person who may assert the victim's rights as set forth in Article 20A of this Chapter."

PART II. MODIFY THE CRITERIA FOR SECURE CUSTODY TO CLARIFY THAT A SUPERIOR COURT JUDGE MAY ENTER A SECURE CUSTODY ORDER FOLLOWING THE REMOVAL OF A CASE TO JUVENILE COURT AND

AUTHORIZE THE ISSUANCE OF A SECURE CUSTODY ORDER IN RESPONSE TO THE VIOLATION OF A CHAPTER 50B DOMESTIC VIOLENCE PROTECTIVE ORDER

SECTION 2.(a) G.S. 7B-1903 reads as rewritten:
"§ 7B-1903. Criteria for secure or nonsecure custody.

...
(b) When a request is made for secure custody, the court may order secure custody only where the court finds there is a reasonable factual basis to believe that the juvenile committed the offense as alleged in the ~~petition~~, petition or in the indictment or criminal information if the request is made pursuant to G.S. 15A-960, and that one of the following circumstances exists:

(1) The juvenile is charged with a felony and has demonstrated that the juvenile is a danger to property or persons.

(1a) The juvenile is charged with the violation of a valid protective order entered pursuant to Chapter 50B of the General Statutes and is alleged to have knowingly violated conditions of the protective order excluding the juvenile from the residence or household occupied by a victim of domestic violence or directing the juvenile to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9).

...."

SECTION 2.(b) G.S. 50B-4.1(b) reads as rewritten:

"(b) A law enforcement officer shall arrest and take a person into custody, with or without a warrant or other process, if the officer has probable cause to believe that the person knowingly has violated a valid protective order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9). If the person is under the age of 18, the law enforcement officer shall request that a juvenile petition be filed for the alleged violation of a valid protective order entered pursuant to this Chapter and shall request the issuance of a secure custody order pursuant to G.S. 7B-1903."

PART III. CLARIFY THAT ALL FELONY SCHOOL NOTIFICATIONS ARE LIMITED TO CLASS A THROUGH CLASS E FELONIES

SECTION 3. G.S. 7B-3101(a) reads as rewritten:

"(a) Notwithstanding G.S. 7B-3000, the juvenile court counselor shall deliver verbal and written notification of any of the following actions to the principal of the school that the juvenile attends:

(1) A petition is filed under G.S. 7B-1802 that alleges delinquency for an offense that would constitute a Class A, B1, B2, C, D, or E felony if committed by an adult. The principal of the school shall make an individualized decision related to the status of the student during the pendency of the matter and not have an automatic suspension policy.

(2) The court transfers jurisdiction over a juvenile to the superior court under ~~G.S. 7B-2200.5 or G.S. 7B-2200.~~G.S. 7B-2200 for an offense that would constitute a Class A, B1, B2, C, D, or E felony if committed by an adult.

(3) The court dismisses under G.S. 7B-2411 the petition that alleges delinquency for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(4) The court issues a dispositional order under Article 25 of Chapter 7B of the General Statutes including, but not limited to, an order of probation that requires school attendance, concerning a juvenile alleged or found delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

- (5) The court modifies or vacates any order or disposition under G.S. 7B-2600 concerning a juvenile alleged or found delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

Notification of the school principal in person or by telephone shall be made before the beginning of the next school day. Delivery shall be made as soon as practicable but at least within five days of the action. Delivery shall be made in person or by certified mail. Notification that a petition has been filed shall describe the nature of the offense. Notification of a dispositional order, a modified or vacated order, or a transfer to superior court shall describe the court's action and any applicable disposition requirements. As used in this subsection, the term "offense" does not include any offense under Chapter 20 of the General Statutes."

PART IV. EXTEND THE RETENTION PERIOD FOR CLOSED COMPLAINTS TO ALLOW FOR REVIEW BY THE PROSECUTOR

SECTION 4. G.S. 7B-1703(c) reads as rewritten:

"(c) If the juvenile court counselor determines that a petition should not be filed or the complaint handled as a juvenile consultation, the juvenile court counselor shall notify the complainant and the victim, if the complainant is not the victim, immediately in writing with specific reasons for the decision, whether or not legal sufficiency was found, and whether the matter was closed or diverted and retained, and shall include notice of the complainant's and victim's right to have the decision reviewed by the prosecutor. The juvenile court counselor shall sign the complaint after indicating on it:

- (1) The date of the determination;
- (2) The words "Not Approved for Filing"; and
- (3) Whether the matter is "Closed" or "Diverted and Retained".

Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile petition or handled as a juvenile consultation shall be destroyed by the juvenile court counselor after holding the complaint for a ~~temporary~~ period of at least one year to allow review as provided in G.S. 7B-1704 and G.S. 7B-1705."

PART V. CREATE A CRIMINAL OFFENSE FOR ESCAPING FROM A JUVENILE JUSTICE FACILITY OR OFFICER

SECTION 5. Article 33 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-256.2. Escape from juvenile detention facilities or officers.

(a) Offense and Punishment. – If any person shall break any detention facility, holdover facility, or youth development center, being lawfully detained therein, or shall escape from the lawful custody of any employee, guard, or officer of the Division of Juvenile Justice of the Department of Public Safety, the person is guilty of a Class 1 misdemeanor, except that the person is guilty of a Class H felony if any of the following apply:

- (1) The person has been charged with a felony and has been committed to the facility pending trial or transfer to the State prison system.
- (2) The person is alleged to be within the jurisdiction of the juvenile court for an offense that would be a felony if committed by an adult and has been placed in secure custody.
- (3) The person has been adjudicated delinquent for an offense that would be a felony if committed by an adult and has been placed in secure custody or committed to the custody of the Division of Juvenile Justice and Delinquency Prevention for placement in a youth development center.

(b) Definitions. – For purposes of this section, the terms "detention facility," "holdover facility," and "youth development center" are as defined in G.S. 7B-1501."

PART VI. CLARIFY AND MAKE TECHNICAL CORRECTIONS TO THE JUVENILE CAPACITY TO PROCEED PROCESS

SECTION 6.(a) G.S. 7B-2401.2 reads as rewritten:

"§ 7B-2401.2. Procedures to determine capacity; hearing procedures; evidence.

...

(e) Any report made to the court pursuant to this section shall be forwarded to the clerk of superior court in a sealed envelope addressed to the attention of a presiding judge, with a covering statement to the clerk of the fact of the examination of the juvenile and any conclusion as to whether the juvenile has or lacks capacity to proceed. ~~If the juvenile is being held in the custody of the Division, the~~ The clerk shall send a copy of the covering statement to the Division. The Division and any persons employed by the Division shall maintain the copy of the covering statement as a confidential record. A copy of the full report shall be forwarded to the juvenile's counsel. If the question of the juvenile's capacity to proceed is raised at any time, a copy of the full report must be forwarded to the prosecutor. Until the question of the juvenile's capacity is raised, the full report to the court shall be kept under such conditions as are directed by the court, and its contents shall not be ~~revealed except the report and the relevant confidential information previously ordered released under G.S. 7B-2401.3(c) shall be released to the program where the juvenile is receiving remediation services and as directed by the court.~~ revealed. Any report made to the court pursuant to this section shall be maintained as a confidential record.

...

(h) When the capacity of the juvenile to proceed is questioned, the court shall hold a hearing to determine the juvenile's capacity to proceed. If an evaluation is ordered pursuant to subsection (b) of this section, the hearing shall be held upon receipt of the forensic evaluation report. The clerk shall provide notice to the ~~juvenile and juvenile, the prosecutor-prosecutor, and the chief court counselor~~ in accordance with G.S. 7B-1807. The order of the court shall contain findings of fact to support its determination of the juvenile's capacity to proceed. The parties may stipulate that the juvenile is capable to proceed but shall not be allowed to stipulate that the juvenile lacks capacity to proceed. If the court finds the juvenile is capable to proceed, the juvenile proceedings shall no longer be stayed, and the court shall set a date for such further proceedings. If the juvenile's capacity to proceed is contested, the juvenile bears the burden of proving the juvenile is incapable to proceed by a preponderance of the evidence. At a contested hearing, the State and the juvenile may call witnesses and present evidence. Nothing in this subsection may be construed to prohibit the State or the juvenile from calling other expert witnesses to testify at a capacity hearing. ~~If appropriate, the~~ If the court finds that the juvenile is not capable to proceed, the court must determine if the juvenile is substantially likely to attain capacity in the foreseeable future. If the court finds that the juvenile is substantially likely to attain capacity in the foreseeable future, the court may order remediation services in accordance with G.S. 7B-2401.4.

...."

SECTION 6.(b) G.S. 7B-2401.4 reads as rewritten:

"§ 7B-2401.4. Remediation.

...

(b) When the court finds the juvenile incapable to proceed, and substantially likely to attain capacity in the foreseeable future, the court may order remediation services. The remediation services shall be based on the recommendations from the forensic evaluation. All forensic evaluations for the juvenile and the relevant confidential information previously ordered released under G.S. 7B-2401.3(c) shall be released to the program or programs where the juvenile is receiving remediation services as directed by the court.

...

(e) An order for remediation services shall contain all of the following:

- (1) Written findings of fact regarding the least restrictive environment for the remediation services.
- (2) If the court order allows for secure confinement pursuant to subsection (d) of this section, the maximum time for placement in a secure facility shall be pursuant to subsection (f) of this section.
- (3) Whether remediation services shall include mental health treatment to reduce interfering symptoms, specialized psychoeducational programming, or a combination of these interventions. If both mental health services and psychoeducational programming are ordered, the court shall identify a provider for each service.

...

(g) The Division shall be responsible for the provision of psychoeducation remediation programming and working with community partners to secure any additional services recommended in the forensic evaluation report. The Division is authorized to contract with the University of North Carolina at Chapel Hill or any other qualified educational organization to develop and conduct related trainings and curriculum.

The remediation service provider or providers shall provide reports to the court at least every 90 days. Any report made to the court pursuant to this subsection shall be forwarded to the clerk of superior court addressed to the attention of the presiding ~~judge~~ judge and to the juvenile's attorney. A report provided under this subsection shall include all of the following:

- (1) The dates of any services provided to the juvenile.
- (2) A summary of the juvenile's attendance and participation.
- (3) Information about the juvenile's progress in the areas that were found to be relevant to the juvenile's ~~incapacity~~ incapacity and that are the focus of the provider's services, including education regarding court procedures and stabilization or improvement of symptoms leading to functional impairments.

No statement or disclosure made by the juvenile during the remediation services regarding the juvenile's responsibility for a criminal act that can result either in an adjudication of delinquency or transfer of a matter to superior court for trial as an adult is admissible in any juvenile or criminal proceeding against the juvenile or defendant. All remediation progress reports, summaries, and notes shall not include any such statement.

~~The court shall hold a hearing within 30 days of receipt of the remediation progress report to review the remediation services. The remediation review hearing may be informal, and the court may consider all remediation progress reports. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine if remediation services should continue or reassessment of capacity is warranted. The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the remediation services. The order of the court may be amended or supplemented only as provided in this Subchapter and only after notice and a hearing.~~

...

(i) If, at any time during the remediation treatment, the remediation service provider finds that the juvenile has likely completed the requirements of the remediation services, the remediation service provider shall provide written notification to the court, the prosecutor, and the juvenile's attorney within two business days regarding this finding. A copy of any remediation report or reports shall be forwarded to the court and to the juvenile's attorney. ~~The court may order the release of a remediation report to the prosecutor after providing the juvenile with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the hearing of the matter before the court and unavailable from any other source. This subsection shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of~~

any private medical or mental health information or records related to substance abuse or HIV status or treatment. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. The juvenile's matter shall be returned to court within a reasonable time, and not more than 30 days after the completion of remediation services, for a remediation review or further proceedings hearing.

(j) Any remediation report completed by a psychoeducation provider on the juvenile's progress in the psychoeducation curriculum shall be provided by the clerk of superior court to the prosecutor and the chief court counselor.

(k) The court may order the release of any remediation report that contains information about the juvenile's mental health treatment to the prosecutor after providing the juvenile with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the hearing of the matter before the court and unavailable from any other source. This subsection shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court.

(l) The court shall hold a remediation review hearing within 30 days of receipt of the remediation progress report or reports or notification that the juvenile has likely completed the requirements of the remediation services. The remediation review hearing may be informal, and the court may consider all remediation progress reports. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine if a remediation service or services should continue, reassessment of capacity is warranted, or the juvenile is not substantially likely to attain capacity in the foreseeable future. The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the remediation service or services. The order of the court requiring remediation service or services may be amended or supplemented only as provided in this Subchapter and only after notice and a hearing.

If the court determines that reassessment of capacity is warranted, the court shall order a new forensic evaluation pursuant to the procedure contained in G.S. 7B-2401.2. This forensic evaluation shall be performed by the original forensic evaluator when possible and comply with the requirements of G.S. 7B-2401.3. Any forensic evaluation shall be conducted independently of the remediation services and shall not be conducted by the remediation provider or providers. A capacity hearing shall be held pursuant to the requirements in G.S. 7B-2401.2 upon receipt of the forensic evaluation report.

If the court determines that the juvenile is not substantially likely to attain capacity in the foreseeable future, the court shall proceed according to G.S. 7B-2401.5."

PART VII. CLARIFY THE PLACE OF CONFINEMENT FOR PERSONS UNDER 18 YEARS OF AGE WHO ARE SENTENCED TO IMPRISONMENT IN THE DEPARTMENT OF ADULT CORRECTION

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

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

...

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

...

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

SECTION 7.(b) G.S. 15A-521 reads as rewritten:

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

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

...

(c) Copies and Use of Order, Receipt of Prisoner. –

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

...."

SECTION 7.(c) G.S. 15A-1301 reads as rewritten:

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

When a judicial official orders that a defendant be imprisoned he must issue an appropriate written commitment order. When the commitment is to a sentence of imprisonment, the commitment must include the identification and class of the offense or offenses for which the defendant was convicted and, if the sentences are consecutive, the maximum sentence allowed by law upon conviction of each offense for the punishment range used to impose the sentence for the class of offense and prior record or conviction level, and, if the sentences are concurrent or consolidated, the longest of the maximum sentences allowed by law for the classes of offense and prior record or conviction levels upon conviction of any of the offenses. If the person sentenced to imprisonment is under the age of 18, the person ~~must~~ shall be committed to a

~~detention facility approved by the Division of Juvenile Justice to provide secure confinement and care for juveniles. the custody of the Division of Prisons of the Department of Adult Correction and shall be confined in a facility operated by the Division of Prisons. If the person is under the age of 18, the person may be temporarily confined in a holdover facility as defined in G.S. 7B-1501(11) until the person can be transferred to a juvenile detention facility. facility operated by the Division of Prisons. Personnel of the Juvenile Justice Division of Juvenile Justice or personnel approved by the Juvenile Justice Division of Juvenile Justice shall transport the person to the juvenile detention Division of Prisons facility or the holdover facility. facility, if the person is in the custody of the Division of Juvenile Justice at the time of commitment."~~

SECTION 7.(d) G.S. 15A-1343(a1)(3) reads as rewritten:

"(3) Submission to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month. If the person being ordered to a period or periods of confinement is under the age of 18, that person ~~must~~ shall be committed to the custody of the Division of Prisons of the Department of Adult Correction and shall be confined in a ~~detention~~ facility approved by the Division of Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). operated by the Division of Prisons. If the person being ordered to a period or periods of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Division of Juvenile Justice, Prisons, or personnel approved by the Division of Juvenile Justice, Prisons, to the custody of the sheriff of the applicable local confinement facility."

SECTION 7.(e) G.S. 15A-1343.2(e)(5) reads as rewritten:

"(5) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month. If the person being ordered to a period or periods of confinement is under the age of 18, that person ~~must~~ shall be committed to the custody of the Division of Prisons of the Department of Adult Correction and shall be confined in a ~~detention~~ facility approved by the Division of Juvenile Justice of the Department of Public Safety to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). operated by the Division of Prisons. If the person being ordered to a period or periods of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Division of Juvenile Justice, Prisons, or personnel approved by the Division of Juvenile Justice, Prisons, to the custody of the sheriff of the applicable local confinement facility."

SECTION 7.(f) G.S. 15A-1343.2(f)(6) reads as rewritten:

"(6) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement

provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month. If the person being ordered to a period or periods of confinement is under the age of 18, that person ~~must~~ shall be committed to the custody of the Division of Prisons of the Department of Adult Correction and shall be confined in a detention facility approved by the Division of Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11), operated by the Division of Prisons. If the person being ordered to a period or periods of confinement reaches the age of 18 years while in confinement, the person may be transported by personnel of the Division of ~~Juvenile Justice, Prisons,~~ or personnel approved by the Division of ~~Juvenile Justice, Prisons,~~ to the custody of the sheriff of the applicable local confinement facility."

SECTION 7.(g) G.S. 15A-1344(d2) reads as rewritten:

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

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

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

received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

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

SECTION 7.(h) G.S. 15A-1344(e) reads as rewritten:

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

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

SECTION 7.(i) G.S. 15A-1351(a) reads as rewritten:

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

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

SECTION 7.(j) G.S. 15A-1352 reads as rewritten:

"§ 15A-1352. Commitment to Division of Prisons of the Department of Adult Correction or local confinement facility.

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

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

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

...

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

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

...."

SECTION 7.(k) G.S. 148-13 reads as rewritten:

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

...

(a1) The Secretary of the Department of Adult Correction shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions. ~~Such rules shall include any person~~

1 ~~serving an activated sentence of imprisonment who is confined in a detention facility approved~~
2 ~~by the Division of Juvenile Justice of the Department of Public Safety.~~

3 ...
4 (e) The Secretary's regulations concerning earned time and good time credits authorized
5 by this section shall be distributed to and followed by local jail administrators ~~and by personnel~~
6 ~~of the Division of Juvenile Justice or personnel approved by the Division of Juvenile Justice with~~
7 ~~regard to sentenced jail prisoners, including prisoners housed in a detention facility approved by~~
8 ~~the Division of Juvenile Justice.~~ prisoners.

9"

10 **SECTION 7.(l)** G.S. 148-32.1(e) reads as rewritten:

11 "(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving
12 under G.S. 20-138.1 into a local confinement facility or ~~to a detention facility approved by the~~
13 ~~Division of Juvenile Justice of the Department of Public Safety~~ a person under the age of 18
14 confined in a facility operated by the Division of Prisons of the Department of Adult Correction
15 pursuant to this section, the custodian of the local confinement facility or detention facility
16 operated by the Division of Prisons shall forward to the Post-Release Supervision and Parole
17 Commission information pertaining to the prisoner so as to make him eligible for parole
18 consideration pursuant to G.S. 15A-1371. Such information shall include date of incarceration,
19 jail credit, and such other information as may be required by the Post-Release Supervision and
20 Parole Commission. The Post-Release Supervision and Parole Commission shall approve a form
21 upon which the custodian shall furnish this information, which form will be provided to the
22 custodian by the Division of Prisons."

23 **SECTION 7.(m)** G.S. 20-179(k5)(5) reads as rewritten:

24 "(5) Submit to a period or periods of confinement in a local confinement facility
25 for a total of no more than six days per month during any three separate
26 months during the period of probation. The six days per month confinement
27 provided for in this subdivision may only be imposed as two-day or three-day
28 consecutive periods. When a defendant is on probation for multiple
29 judgments, confinement periods imposed under this subdivision shall run
30 concurrently and may total no more than six days per month. If the person
31 being ordered to a period or periods of confinement is under the age of 18,
32 that person ~~must~~ shall be confined in a ~~detention facility approved by the~~
33 ~~Division of Juvenile Justice of the Department of Public Safety to provide~~
34 ~~secure confinement and care for juveniles or to a holdover facility as defined~~
35 ~~in G.S. 7B-1501(11).~~ operated by the Division of Prisons of the Department
36 of Adult Correction. If the person being ordered to a period or periods of
37 confinement reaches the age of 18 years while in confinement, the person may
38 be transported by personnel of the Division of ~~Juvenile Justice, Prisons,~~
39 ~~or personnel approved by the Division of Juvenile Justice, Prisons,~~
40 Prisons, to the custody
41 of the sheriff of the applicable local confinement facility."

42 **PART VIII. SAVINGS CLAUSE AND EFFECTIVE DATE**

43 **SECTION 8.(a)** Prosecutions for offenses committed before the effective date of
44 this act are not abated or affected by this act, and the statutes that would be applicable but for
45 this act remain applicable to those prosecutions.

46 **SECTION 8.(b)** Parts I through VI of this act become effective December 1, 2025,
47 and apply to offenses committed on or after that date. Part VII of this act becomes effective
48 August 1, 2025, and applies to offenses committed, sentences imposed, and any other orders of
49 imprisonment issued on or after that date. The remainder of this act is effective when it becomes
50 law.