

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2012-168
SENATE BILL 141**

AN ACT TO CREATE NEW FIRST DEGREE TRESPASS OFFENSES, TO MAKE VARIOUS CHANGES REGARDING THE PROCEDURES FOR A MOTION FOR APPROPRIATE RELIEF, TO AMEND THE PROCEDURE FOR IMMEDIATE LICENSE REVOCATIONS FOR PROVISIONAL LICENSEES CHARGED WITH CERTAIN CRIMINAL MOVING VIOLATIONS, TO CLARIFY THAT CERTAIN CHANGES TO PAYABLE ON DEATH CONTRACTS DID NOT CHANGE THE PROCEDURES FOR CREATING THOSE CONTRACTS, TO ESTABLISH A RESEARCH AND PLANNING SECTION WITHIN THE DEPARTMENT OF PUBLIC SAFETY, TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO DESIGNATE ITS RESEARCH AND PLANNING SECTION AS THE SINGLE STATE AGENCY RESPONSIBLE FOR THE COORDINATION AND IMPLEMENTATION OF REENTRY POLICY INITIATIVES, TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO CONTINUE ITS EFFORTS TO ASSIST OFFENDERS IN SUCCESSFULLY REENTERING SOCIETY, AND TO EXTEND THE TIME FOR LOCAL FORENSIC SCIENCE LABS TO OBTAIN ACCREDITATION AND FOR CERTAIN FORENSIC SCIENTISTS TO OBTAIN CERTIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-159.12 reads as rewritten:

"§ 14-159.12. First degree trespass.

(a) Offense. – A person commits the offense of first degree trespass if, without authorization, he enters or remains:

- (1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders; or
- (2) In a building of another.

(b) ~~Classification. — First~~ Except as otherwise provided in subsection (c) or (d) of this section, first degree trespass is a Class 2 misdemeanor.

(c) Except as otherwise provided in subsection (d) of this section, a violation of subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances exist:

- (1) The offense is committed on the premises of any of the following:
 - a. A facility that is owned or operated by an electric power supplier as defined in G.S. 62-133.8(a)(3) and that is either an electric generation facility, a transmission substation, a transmission switching station, a transmission switching structure, or a control center used to manage transmission operations or electrical power generating at multiple plant locations.
 - b. Any facility used or available for use in the collection, treatment, testing, storing, pumping, or distribution of water for a public water system.
 - c. Any facility, including any liquefied natural gas storage facility or propane air facility, that is owned or operated by a natural gas local distribution company, natural gas pipeline carrier operating under a certificate of public convenience and necessity from the Utilities Commission, municipal corporation operating a municipally owned gas distribution system, or regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General



Statutes used for transmission, distribution, measurement, testing, regulating, compression, control, or storage of natural gas.

(2) The person actually entered a building, or it was necessary for the person to climb over, go under, or otherwise surmount a fence or other barrier to reach the facility.

(d) If, in addition to the circumstances set out in subsection (c) of this section, the violation also includes any of the following elements, then the offense is a Class H felony:

(1) The offense is committed with the intent to disrupt the normal operation of any of the facilities described in subdivision (1) of subsection (c) of this section.

(2) The offense involves an act that places either the offender or others on the premises at risk of serious bodily injury.

(e) As used in subsections (c) and (d) of this section, the term "facility" shall mean a building or other infrastructure."

SECTION 2.(a) G.S. 15A-1413 reads as rewritten:

"§ 15A-1413. Trial judges empowered to ~~act~~; assignment of motions for appropriate relief.

(a) A motion for appropriate relief made pursuant to G.S. 15A-1415 may be heard and determined in the trial division by any judge ~~who~~ who (i) is empowered to act in criminal matters in the district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, in which the judgment was ~~entered~~ entered and (ii) is assigned pursuant to this section to review the motion for appropriate relief and take the appropriate administrative action to dispense with the motion.

(b) The judge who presided at the trial is empowered to act upon a motion for appropriate relief made pursuant to G.S. 15A-1414. ~~He~~ The judge may act even though ~~he~~ the judge is in another district or even though ~~his~~ the judge's commission has ~~expired~~ expired; however, if the judge who presided at the trial is still unavailable to act, the senior resident superior court judge or the chief district court judge, as appropriate, shall assign a judge who is empowered to act under subsection (a) of this section.

(c) ~~When a motion for appropriate relief may be made before a judge who did not hear the case, he may, if it is practicable to do so, refer all or a part of the matter for decision to the judge who heard the case.~~

(d) All motions for appropriate relief filed in superior court shall, when filed, be referred to the senior resident superior court judge, who shall assign the motion as provided by this section for review and administrative action, including, as may be appropriate, dismissal, calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other appropriate actions.

All motions for appropriate relief filed in district court shall, when filed, be referred to the chief district court judge, who shall assign the motion as provided by this section for review and administrative action, including, as may be appropriate, dismissal, calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other appropriate actions.

(e) The assignment of a motion for appropriate relief filed under G.S. 15A-1415 is in the discretion of the senior resident superior court judge or chief district court judge as appropriate."

SECTION 2.(b) G.S. 15A-1420 reads as rewritten:

"§ 15A-1420. Motion for appropriate relief; procedure.

(a) Form, Service, Filing.

(1) A motion for appropriate relief must:

a. Be made in writing unless it is made:

1. In open court;
2. Before the judge who presided at trial;
3. Before the end of the session if made in superior court; and
4. Within 10 days after entry of judgment;

b. State the grounds for the motion;

c. Set forth the relief sought;

c1. If the motion for appropriate relief is being made in superior court and is being made by an attorney, the attorney must certify in writing that there is a sound legal basis for the motion and that it is being made in good faith; and that the attorney has notified both the district

attorney's office and the attorney who initially represented the defendant of the motion; and further, that the attorney has reviewed the trial transcript or made a good-faith determination that the nature of the relief sought in the motion does not require that the trial transcript be read in its entirety. In the event that the trial transcript is unavailable, instead of certifying that the attorney has read the trial transcript, the attorney shall set forth in writing what efforts were undertaken to locate the transcript; and

d. Be timely filed.

- (2) A written motion for appropriate relief must be served in the manner provided in G.S. 15A-951(b). ~~When the written motion is made more than 10 days after entry of judgment, service of the motion and a notice of hearing must be made not less than five working days prior to the date of the hearing.~~ When a motion for appropriate relief is permitted to be made orally the court must determine whether the matter may be heard immediately or at a later time. If the opposing party, or his counsel if he is represented, is not present, the court must provide for the giving of adequate notice of the motion and the date of hearing to the opposing party, or his counsel if he is represented by counsel.
- (3) A written motion for appropriate relief must be filed in the manner provided in G.S. 15A-951(c).
- (4) An oral or written motion for appropriate relief may not be granted in district court without the signature of the district attorney, indicating that the State has had an opportunity to consent or object to the motion. However, the court may grant a motion for appropriate relief without the district attorney's signature 10 business days after the district attorney has been notified in open court of the motion, or served with the motion pursuant to G.S. 15A-951(c).
- (5) An oral or written motion for appropriate relief made in superior court and made by an attorney may not be granted by the court unless the attorney has complied with the requirements of sub-subdivision c1. of subdivision (1) of this subsection.

(b) Supporting Affidavits.

- (1) A motion for appropriate relief made after the entry of judgment must be supported by affidavit or other documentary evidence if based upon the existence or occurrence of facts which are not ascertainable from the records and any transcript of the case or which are not within the knowledge of the judge who hears the motion.
- (2) The opposing party may file affidavits or other documentary evidence.

(b1) ~~Filing Motion With Clerk; Review of Motion by Judge/Clerk.~~

- (1) The proceeding shall be commenced by filing with the clerk of superior court of the district wherein the defendant was indicted a motion, with service on the district attorney in noncapital cases, and service on both the district attorney and Attorney General in capital cases.
- (2) The clerk, upon receipt of the motion, shall place the motion on the criminal docket. The clerk shall promptly bring the motion, or a copy of the motion, to the attention of the resident judge or any judge holding court in the county or district. When a motion is placed on the criminal docket, the clerk shall promptly bring the motion, or a copy of the motion, to the attention of the senior resident superior court judge or chief district court judge, as appropriate, for assignment to the appropriate judge pursuant to G.S. 15A-1413.

(b2) Noncapital Cases. – Assignment of Motion for Review; Initial Review of Motion; Time Frame for Hearings and Ruling on Motion.

- (1) ~~In noncapital cases, the judge shall review the motion and enter an order whether the defendant should be allowed to proceed without the payment of costs, with respect to the appointment of counsel, and directing the State, if necessary, to file an answer.~~ In noncapital cases, the senior resident superior court judge or chief district court judge, as appropriate, shall, within 30 days

- of the filing of the motion, assign the motion for initial review to the appropriate judge as provided in G.S. 15A-1413.
- (2) The assigned judge, no later than 30 working days after the assignment, shall review the motion and issue a written initial review order that concludes the initial review of the motion in one of the following manners: (i) by dismissing the motion for lack of merit on its face, (ii) by directing the State, if necessary, to file an answer within 30 days from the date on which the initial review order was issued, or (iii) by dispensing with the requirement that the State file an answer and instead order a hearing. Unless the motion is dismissed, the initial review order shall also indicate whether the defendant shall be allowed to proceed without the payment of costs; indicate whether counsel shall be appointed; and calendar a hearing on the motion within the appropriate time period as set out in subdivisions (3) and (4) of this subsection.
- (3) Unless provided otherwise by this subsection, if the court determines that an evidentiary hearing is required, then the hearing must be held within 90 days from the date on which the initial review order was issued; if no evidentiary hearing is required, then the hearing must be held within 60 days from the date on which the initial review order was issued. If, in the initial review order, the court orders the State to file an answer and the court determines that an evidentiary hearing is required, then the evidentiary hearing must be held within 150 days from the date on which the initial review order was issued; if the court determines that the hearing is not an evidentiary hearing, then the hearing must be held within 120 days from the date on which the initial review order was issued.
- (4) If the court determines pursuant to subdivision (2) of this subsection that counsel shall be appointed, the time periods provided in subdivision (3) of this subsection shall be calculated from the date of the appointment of counsel rather than the date of the initial review order and shall be extended for an additional 60 days.
- (5) The court shall provide notice of the date of the hearing to both the State and the defendant, or the defendant's counsel if defendant is represented by counsel, no less than five working days prior to the date of any hearing. The court, except for good cause shown as provided in subdivision (6) of this subsection, must rule on a motion within 60 days from the date that the hearing concludes.
- (6) Notwithstanding any other provision of this subsection, the court may, upon request of a party to the motion, grant an extension of time to comply with any deadline under this subsection, not to exceed 30 days. No subsequent request by the party to extend this deadline shall be granted unless the court enters a written order containing detailed findings of fact of extraordinary circumstances. Notwithstanding any other provision of this subsection, the senior resident superior court judge or chief district court judge, as appropriate, may, upon request of a judge assigned to review a motion for appropriate relief, grant to the assigned judge an extension of time to comply with any deadline under this subsection, not to exceed 30 days. No subsequent request by the assigned judge to extend this deadline shall be granted unless the senior resident superior court judge or the chief district court judge, as appropriate, enters a written order containing detailed findings of fact of extraordinary circumstances. The failure of the court to comply with the deadlines under this subsection is grounds for any party to petition the senior resident superior court judge or the chief district court judge, as appropriate, to reassign the motion of appropriate relief to a different judge empowered to act upon a motion for appropriate relief. The failure of the court to comply with the deadlines under this subsection also entitles any party to the motion for appropriate relief to seek a writ of mandamus to obtain compliance with the deadline.
- (7) Notwithstanding any other provision of this subsection, failure to meet a deadline under this subsection is not a ground for the summary granting of a

motion for appropriate relief or other summary relief, including without limitation, ordering the release of the prisoner.

(b3) Capital Cases. – Review and Calendaring of Motion. – In capital cases, the judge shall review the motion and enter an order directing the State to file its answer within 60 days of the date of the order. If a hearing is necessary, the judge shall calendar the case for hearing without unnecessary delay.

(c) Hearings, Showing of Prejudice; Findings.

- (1) Any party is entitled to a hearing on questions of law or fact arising from the motion and any supporting or opposing information presented unless the court determines that the motion is without merit. The court must determine, on the basis of these materials and the requirements of this subsection, whether an evidentiary hearing is required to resolve questions of fact. Upon the motion of either party, the judge may direct the attorneys for the parties to appear before him for a conference on any prehearing matter in the case.
- (2) An evidentiary hearing is not required when the motion is made in the trial court pursuant to G.S. 15A-1414, but the court may hold an evidentiary hearing if it is appropriate to resolve questions of fact.
- (3) The court must determine the motion without an evidentiary hearing when the motion and supporting and opposing information present only questions of law. The defendant has no right to be present at such a hearing where only questions of law are to be argued.
- (4) If the court cannot rule upon the motion without the hearing of evidence, it must conduct a hearing for the taking of evidence, and must make findings of fact. The defendant has a right to be present at the evidentiary hearing and to be represented by counsel. A waiver of the right to be present must be in writing.
- (5) If an evidentiary hearing is held, the moving party has the burden of proving by a preponderance of the evidence every fact essential to support the motion.
- (6) A defendant who seeks relief by motion for appropriate relief must show the existence of the asserted ground for relief. Relief must be denied unless prejudice appears, in accordance with G.S. 15A-1443.
- (7) The court must rule upon the motion and enter its order accordingly. When the motion is based upon an asserted violation of the rights of the defendant under the Constitution or laws or treaties of the United States, the court must make and enter conclusions of law and a statement of the reasons for its determination to the extent required, when taken with other records and transcripts in the case, to indicate whether the defendant has had a full and fair hearing on the merits of the grounds so asserted.

(d) Action on Court's Own Motion. – At any time that a defendant would be entitled to relief by motion for appropriate relief, the court may grant such relief upon its own motion. The court must cause appropriate notice to be given to the parties.

(e) Nothing in this section shall prevent the parties to the action from entering into an agreement for appropriate relief, including an agreement as to any aspect, procedural or otherwise, of a motion for appropriate relief."

SECTION 3. G.S. 20-13.3 reads as rewritten:

"§ 20-13.3. Immediate civil license revocation for provisional licensees charged with certain offenses.

(a) Definitions. — As used in this section, the following words and phrases have the following meanings:

- (1) Clerk. — As defined in G.S. 15A-101(2).
- (2) Criminal moving violation. — A violation of Part 9 or 10 of Article 3 of this Chapter which is punishable as a misdemeanor or a felony offense. This term does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of this Chapter.
- (3) Judicial official. — As defined in G.S. 15A-101(5).

- (4) Provisional licensee. — A person under the age of 18 who has a limited learner's permit, a limited provisional license, or a full provisional license issued pursuant to G.S. 20-11.
- (5) Revocation report. — A sworn statement by a law enforcement officer containing facts indicating that the conditions of subsection (b) of this section have been met.

(b) Revocations for Provisional Licensees Charged With Criminal Moving Violation. — A provisional licensee's permit or license is subject to revocation under this section if a law enforcement officer has reasonable grounds to believe that the provisional licensee has committed a criminal moving violation, the provisional licensee is charged with that offense, and the provisional licensee is not subject to a civil revocation pursuant to G.S. 20-16.5.

(c) Duty of Law Enforcement Officers to Notify Provisional Licensee and Report to Judicial Officials. — If a provisional licensee's permit or license is subject to revocation under this section, the law enforcement officer must execute a revocation report and ~~must take the provisional licensee before a judicial official for an initial appearance report.~~ It is the specific duty of the law enforcement officer to make sure that the report is expeditiously filed with a judicial official as required by this section. If no initial appearance is required on the underlying criminal moving violation at the time of the issuance of the charge, the law enforcement officer must verbally notify the provisional licensee that the provisional licensee's permit or license is subject to revocation pursuant to this section and must provide the provisional licensee with a written form containing notice of the process for revocation and hearing under this section.

(c1) Which Judicial Official Must Receive Report. — The judicial official with whom the revocation report must be filed is:

- (1) The judicial official conducting the initial appearance on the underlying criminal moving violation.
- (2) The clerk of superior court in the county in which the underlying criminal charge has been brought if no initial appearance is required.

(d) ~~Judicial Official Must Receive Report; Procedure Upon Receipt of Report.~~ Procedure If Report Filed With Judicial Official When Provisional Licensee Is Present. — ~~The~~ If an initial appearance is required, the law enforcement officer must file the revocation report with the judicial official conducting the initial appearance on the underlying criminal moving violation. If a properly executed revocation report concerning a provisional licensee is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the provisional licensee, determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the judicial official determines there is such probable cause, the judicial official shall enter an order revoking the provisional licensee's permit or license. In addition to setting it out in the order, the judicial official shall personally inform the provisional licensee of the right to a hearing as specified in subsection (d2) of this section and that the provisional licensee's permit or license remains revoked pending the hearing. The period of revocation is for 30 days and begins at the time the revocation order is issued and continues for 30 additional calendar days. The judicial official shall give the provisional licensee a copy of the revocation order, which shall include the beginning date of the revocation and shall clearly state the final day of the revocation period and the date on which the provisional licensee's permit or license will again become valid. The provisional licensee shall not be required to surrender the provisional licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d1) Procedure If Report Filed With Clerk of Court When Provisional Licensee Not Present. — When a clerk receives a properly executed report under subdivision (2) of subsection (c1) of this section and the provisional licensee named in the revocation report is not present before the clerk, the clerk shall determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the clerk determines there is such probable cause, the clerk shall mail to the provisional licensee a revocation order by first-class mail. The order shall inform the provisional licensee that the period of revocation is for 30 days, that the revocation becomes effective on the fourth day after the order is deposited in the United States mail and continues for 30 additional calendar days, of the right to a hearing as specified in subsection (d2) of this section, and that the revocation remains in effect pending the hearing. The provisional licensee shall not be required to surrender the provisional

licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d2) Hearing Before Magistrate or Judge If Provisional Licensee Contests Validity of Revocation. – A provisional licensee whose permit or license is revoked under this section may request in writing a hearing to contest the validity of the revocation. The request may be made at the time of the person's initial appearance, or within 10 days of the effective date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically request that the hearing be conducted by a district court judge. The Administrative Office of the Courts must develop a hearing request form for any provisional licensee requesting a hearing. Unless a district court judge is requested, the hearing must be conducted within the county by a magistrate assigned by the chief district court judge to conduct such hearings. If the provisional licensee requests that a district court judge hold the hearing, the hearing must be conducted within the district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct such hearings. The revocation remains in effect pending the hearing, but the hearing must be held within three working days following the request if the hearing is before a magistrate or within ten working days if the hearing is before a district court judge. The request for the hearing must specify the grounds upon which the validity of the revocation is challenged, and the hearing must be limited to the grounds specified in the request. A witness may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies is subject to questioning by the judicial official conducting the hearing, and the judicial official may adjourn the hearing to seek additional evidence if the judicial official is not satisfied with the accuracy or completeness of evidence. The provisional licensee contesting the validity of the revocation may, but is not required to, testify in his own behalf. Unless contested by the person requesting the hearing, the judicial official may accept as true any matter stated in the revocation report. If any relevant condition under subsection (b) of this section is contested, the judicial official must find by the greater weight of the evidence that the condition was met in order to sustain the revocation. At the conclusion of the hearing, the judicial official must enter an order sustaining or rescinding the revocation. The judicial official's findings are without prejudice to the provisional licensee contesting the revocation and to any other potential party as to any other proceedings, civil or criminal, that may involve facts bearing upon the conditions in subsection (b) of this section considered by the judicial official. The decision of the judicial official is final and may not be appealed in the General Court of Justice. If the hearing is not held and completed within three working days of the written request for a hearing before a magistrate or within ten working days of the written request for a hearing before a district court judge, the judicial official must enter an order rescinding the revocation, unless the provisional licensee contesting the revocation contributed to the delay in completing the hearing. If the provisional licensee requesting the hearing fails to appear at the hearing or any rescheduling thereof after having been properly notified, the provisional licensee forfeits the right to a hearing.

(e) Report to Division. — The clerk shall notify the Division of the issuance of a revocation order pursuant to this section within two business days of the issuance of the revocation order. The notification shall identify the person whose provisional license has been revoked and specify the beginning and end date of the revocation period.

(f) Effect of Revocations. — A revocation under this section revokes a provisional licensee's privilege to drive in North Carolina. Revocations under this section are independent of and run concurrently with any other revocations, except for a revocation pursuant to G.S. 20-16.5. Any civil revocation issued pursuant to G.S. 20-16.5 for the same underlying conduct as a revocation under this section shall have the effect of terminating a revocation pursuant to this section. No court imposing a period of revocation following conviction for an offense involving impaired driving may give credit for any period of revocation imposed under this section. A person whose license is revoked pursuant to this section is not eligible to receive a limited driving privilege.

(g) Designation of Proceedings. — Proceedings under this section are civil actions and must be identified by the caption "In the Matter of _____" and filed as directed by the Administrative Office of the Courts.

(h) No drivers license points or insurance surcharge shall be assessed for a revocation pursuant to this section. Possession of a drivers license revoked pursuant to this section shall not be a violation of G.S. 20-30.

(i) The Administrative Office of the Courts shall adopt forms to implement this section."

SECTION 4. Section 5 of S.L. 2011-236 reads as rewritten:

"**SECTION 5.** This act becomes effective October 1, 2011, and applies to agreements executed on or after that date. Agreements executed prior to October 1, 2011, remain subject to the laws in effect at the time the parties executed the ~~agreement~~agreement; differences in wording between procedures authorized to establish agreements under the laws repealed by this act and under the superseding laws enacted by this act clarify the permitted procedures under the repealed laws."

SECTION 5.(a) G.S. 148-77 is repealed.

SECTION 5.(b) G.S. 143B-600(a) reads as rewritten:

"(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. The Department shall consist of six divisions and an Office of External Affairs as follows:

...
(6) The Division of Administration, the head of which shall be a deputy secretary responsible for all administrative functions, including fiscal, auditing, information technology, purchasing, human resources, training, engineering, and facility management functions for the Department. Within the Division, there is established a Grants Management Section, which shall consist of the Governor's Crime Commission, the Criminal Justice Partnership Program, and the Juvenile Crime Prevention Council Fund. There is also established within the Division a Research and Planning Section responsible for statistics, research, and planning to facilitate regular improvement in the structure, administration, and programs of the Department of Public Safety. The Research and Planning Section may cooperate with and seek the cooperation of public and private agencies, institutions, officials, and individuals in the development and conduct of programs to compile and analyze statistics and to conduct research in criminology and correction. The Research and Planning Section shall be the single State agency responsible for the coordination and implementation of ex-offender reentry initiatives.

...
...
SECTION 5.(c) During the 2012-2013 fiscal year, the Research and Planning Section of the Department of Public Safety shall work with local communities to form up to 10, but not less than three, local reentry councils to develop comprehensive local reentry plans, to document and maximize the use of existing services, and to supervise and coordinate innovative responses to the reintegration of ex-offenders at the local level. The Section shall also form a State-level advisory group with broad representation of involved State agency leadership, service providers, and program recipients.

SECTION 6. Section 11 of S.L. 2011-19, as amended by Section 9 of S.L. 2011-307, reads as rewritten:

"**SECTION 11.** Sections 1 through 5 and Sections 9 through 11 are effective when this act becomes law, and Section 6 becomes effective July 1, 2011. Sections 7 and 8 of this act are effective when they become law, however, until ~~October 1, 2012~~July 1, 2013, the provisions of those sections shall apply only to the North Carolina State Crime Laboratory, and on or after ~~October 1, 2012~~July 1, 2013, the provisions of Sections 7 and 8 shall apply to all laboratories conducting forensic or chemical analysis for admission in the courts of this State. Nothing in this act is intended to amend or modify either the statutory or common law applicable to discovery in criminal cases which was applicable prior to the effective date of this act. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions."

SECTION 6.1. Effective June 1, 2012, Section 4 of S.L. 2011-19, as amended by Section 8 of S.L. 2011-307 reads as rewritten:

"**SECTION 4.** ~~Forensic science professionals—Scientists I, II, and III, forensic science supervisors, and forensic scientist managers~~ at the State Crime Laboratory shall be required to obtain individual certification consistent with international and ISO standards within 18 months of the date the ~~analyst-scientist~~ becomes eligible to seek certification according to the standards

of the certifying entity ~~or by June 1, 2012, whichever occurs later, or by January 1, 2013, or as soon as practicable after that date unless no certification is available. All such forensic science professionals~~ scientists shall have access to the certification process."

SECTION 7. Section 1 of this act becomes effective September 1, 2012, and applies to offenses committed on or after that date. Section 2 of this act becomes effective December 1, 2012, and applies to motions for appropriate relief pending, and for which no answer has been filed, or filed on or after that date. Section 3 of this act becomes effective October 1, 2012, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 4:36 p.m. this 12th day of July, 2012