

## **Chapter 114.**

### **Department of Justice.**

#### Article 1.

#### Attorney General.

#### **§ 114-1. Creation of Department of Justice under supervision of Attorney General.**

There is hereby created a Department of Justice which shall be under the supervision and direction of the Attorney General, as authorized by Article III, Sec. 7, of the Constitution of North Carolina. (1939, c. 315, s. 1; 1973, c. 702, s. 1.)

#### **§ 114-1.1. Common-law powers.**

The General Assembly reaffirms that the Attorney General has had and continues to be vested with those powers of the Attorney General that existed at the common law, that are not repugnant to or inconsistent with the Constitution or laws of North Carolina. (1985, c. 479, s. 137.)

#### **§ 114-2. Duties.**

Pursuant to Section 7(2) of Article III of the North Carolina Constitution, it shall be the duty of the Attorney General:

- (1) To defend all actions in the appellate division in which the State shall be interested, or a party, and to appear for the State in any other court or tribunal in any cause or matter, civil or criminal, in which the State may be a party or interested. The duty to represent the State in criminal appeals shall not be delegated to any district attorney's office or any other entity.
- (2) To represent all State departments, agencies, institutions, commissions, bureaus or other organized activities of the State which receive support in whole or in part from the State. Where the Attorney General represents a State department, agency, institution, commission, bureau, or other organized activity of the State which receives support in whole or in part from the State, the Attorney General shall act in conformance with Rule 1.2 of the Rules of Professional Conduct of the North Carolina State Bar.
- (3) Repealed by Session Laws 1973, c. 702, s. 2.
- (4) To consult with and advise the prosecutors, when requested by them, in all matters pertaining to the duties of their office.
- (5) To give, when required, his opinion upon all questions of law submitted to him by the General Assembly, or by either branch thereof, or by the Governor, Auditor, Treasurer, or any other State officer.
- (6) To pay all moneys received for debts due or penalties to the State immediately after the receipt thereof into the treasury.
- (7) To compare the warrants drawn on the State treasury with the laws under which they purport to be drawn.
- (8) Subject to the provisions of G.S. 62-20:
  - a. To intervene, when he deems it to be advisable in the public interest, in proceedings before any courts, regulatory officers, agencies and bodies, both State and federal, in a representative capacity for and on behalf of the using and consuming public of this State. He shall also have the authority to institute and originate proceedings before such courts,

officers, agencies or bodies and shall have authority to appear before agencies on behalf of the State and its agencies and citizens in all matters affecting the public interest.

- b. Upon the institution of any proceeding before any State agency by application, petition or other pleading, formal or informal, the outcome of which will affect a substantial number of residents of North Carolina, such agency or agencies shall furnish the Attorney General with copies of all such applications, petitions and pleadings so filed, and, when the Attorney General deems it advisable in the public interest to intervene in such proceedings, he is authorized to file responsive pleadings and to appear before such agency either in a representative capacity in behalf of the using and consuming public of this State or in behalf of the State or any of its agencies.
- (9) To notify the Speaker of the House of Representatives and the President Pro Tempore of the Senate whenever an action is filed in State or federal court that challenges the validity of a North Carolina statute or provision of the North Carolina Constitution under State or federal law.
- (10) Pursuant to G.S. 120-32.6, to represent upon request and otherwise abide by and defer to the final decision-making authority exercised by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as agents of the State through the General Assembly, in defending any State or federal action challenging the validity or constitutionality of an act of the General Assembly or a provision of the North Carolina Constitution. If for any reason the Attorney General cannot perform the duty specified herein, the Attorney General may recuse personally from such defense but shall appoint another attorney employed by the Department of Justice to act at the direction of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. (1868-9, c. 270, s. 82; 1871-2, c. 112, s. 2; Code, s. 3363; 1893, c. 379; 1901, c. 744; Rev., s. 5380; C.S., s. 7694; 1931, c. 243, s. 5; 1933, c. 134, s. 8; 1941, c. 97; 1967, c. 691, s. 51; 1969, c. 535; 1973, c. 702, s. 2; 1977, c. 468, s. 17; 1979, c. 107, s. 9; 1983, c. 913, s. 15; 2014-100, s. 17.3A(b); 2017-57, s. 6.7(m); 2017-212, s. 5.2(a).)

#### **§ 114-2.1. Consent judgments.**

In litigation in which the State is interested or is a party, no consent judgment shall be entered into by the State unless and no consent judgment shall be binding on the State except to the extent that the State's entire obligation for the current and for future fiscal years will be satisfied with funds that are available for that purpose for the current fiscal year, including funds that the Council of State agrees to allot from the Contingency and Emergency Fund, provided that for payments of tort claims and workers' compensation claims it shall not be binding on the State except to the extent that the State's entire obligation for the current and for future fiscal years can be satisfied with funds that are available for the current fiscal year, including funds that the Council of State agrees to allot from the Contingency and Emergency Fund. The Director of the Budget shall report to the appropriation committees of the General Assembly concerning all funds made available during the preceding fiscal year from the Contingency and Emergency Fund for the purpose of

carrying out consent judgments. (1981 (Reg. Sess., 1982), c. 1282, s. 51; 1983 (Reg. Sess., 1984), c. 1034, s. 95; c. 1116, s. 85.)

### **§ 114-2.2. Consent judgments.**

(a) To be effective against the State, a consent judgment entered into by the State, a State department, State agency, State institution, or a State officer who is a party in his official capacity must be signed personally by the Attorney General. This power of approval may not be delegated to a deputy or assistant Attorney General or to any other subordinate. This subsection shall not apply to consent judgments that name as a party a State department, agency, institution, or officer.

(a1) Where a dispute, claim, or controversy names as a party a State department, agency, or institution, or officer, a consent judgment shall be approved by the head of the department, agency, or institution, or by the State officer, before the judgment may be entered.

(a2) Where a dispute, claim, or controversy is challenging a North Carolina statute or provision of the North Carolina Constitution, and the Speaker of the House of Representatives and the President Pro Tempore of the Senate (i) have jointly intervened on behalf of the General Assembly in accordance with G.S. 1-72.2 or (ii) are otherwise jointly named in their official capacities as parties to the dispute, claim, or controversy, a consent judgment shall be jointly approved by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, or by and through counsel of their choice, before the judgment may be entered.

(b) The provisions of this section are supplemental to G.S. 114-2.1.

(c) Notwithstanding subsection (a) of this section, the Attorney General by rule may delegate to a deputy or assistant Attorney General or to another subordinate the power to sign consent judgments in condemnation or eminent domain actions brought under the provisions of Chapters 40A or 136 of the General Statutes and consent judgments under the provision of Article 31 of Chapter 143 (Tort Claims Act) and Chapter 97 (Workers' Compensation Act) of the General Statutes. (1983 (Reg. Sess., 1984), c. 1034, s. 95; c. 1116, s. 85; 2014-100, s. 17.3A(c); 2021-180, s. 18.7(a).)

### **§ 114-2.3. Use of private counsel limited.**

(a) Every agency, institution, department, bureau, board, or commission of the State, authorized by law to retain private counsel, shall obtain written permission from the Attorney General prior to employing private counsel. This section does not apply to counties, cities, towns, other municipal corporations or political subdivisions of the State, or any agencies of these municipal corporations or political subdivisions, or to county or city boards of education. This subsection does not apply to private counsel retained by the Judicial Department for the defense of an official or employee of the Department in any action arising from conduct undertaken in the course of the official's or employee's official duties and in which the Attorney General has declined to provide the litigation services.

(b) Article 2A of this Chapter applies to any contract to retain private counsel authorized by the Attorney General under this section.

(c) Except as provided in G.S. 147-17, the Attorney General shall represent the State in any action requiring the State to be a party under G.S. 1-72.3.

(d) No State funds shall be withdrawn from the State treasury to pay for litigation services provided by private counsel except as expressly authorized by an appropriation of the General Assembly. As used in this subsection, litigation services include legal work conducted in anticipation of, or in preparation for, any suit or action. As used in this section, private counsel

includes any licensed attorney retained by, engaged by, or otherwise representing a department, officer, agency, institution, commission, bureau, or other organized activity of the State but does not include a licensed attorney who holds a permanent budgeted position in either the Department of Justice or the applicable department, officer, agency, institution, commission, bureau, or other organized activity of the State. (1985, c. 479, s. 135; 2014-110, s. 1.2; 2016-109, s. 2(b); 2017-57, s. 6.7(b); 2021-180, s. 16.10(c).)

#### **§ 114-2.4. Settlement agreements.**

(a) The Attorney General shall review the terms of all proposed agreements entered into by the State or a State department, agency, institution, or officer to settle or resolve litigation or potential litigation, that involves the payment of public monies in the sum of seventy-five thousand dollars (\$75,000) or more. In order for such an agreement or contract to be effective against the State, the Attorney General shall submit to the State or the State department, agency, institution, or officer a written opinion regarding the terms of the proposed agreement and the advisability of entering into the agreement, prior to entering into the agreement. The written opinion required by this section shall be maintained in the official file of the final settlement agreement. The Attorney General by rule may delegate to a deputy or assistant Attorney General or to another subordinate the authority to review settlement agreements.

(a1) Where a dispute, claim, or controversy names as a party a State department, agency, or institution, or officer, a proposed settlement agreement or other agreement that would dispose of the dispute, claim, or controversy shall be approved by the head of the department, agency, or institution, or by the State officer, before the agreement may be entered.

(a2) Where a dispute, claim, or controversy is challenging a North Carolina statute or provision of the North Carolina Constitution, and the Speaker of the House of Representatives and the President Pro Tempore of the Senate (i) have intervened on behalf of the General Assembly in accordance with G.S. 1-72.2 or (ii) are otherwise jointly named in their official capacities as parties to the dispute, claim, or controversy, a proposed settlement agreement or other agreement that would dispose of the dispute, claim, or controversy shall be jointly approved by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, or by and through counsel of their choice, before the agreement may be entered.

(b) The Attorney General shall report to the Joint Legislative Commission on Governmental Operations on all agreements entered into by the State or a State department, agency, institution, or officer to settle or resolve litigation or potential litigation, that involves the payment of public monies in the sum of seventy-five thousand dollars (\$75,000) or more. (1997-443, s. 20.14(a); 2014-100, s. 17.3A(d); 2021-180, s. 18.7(b).)

#### **§ 114-2.4A. Disposition of funds received by the State or a State agency from a settlement or other final order or judgment of the court.**

(a) Definition. – For purposes of this section, the term "settlement" means an agreement entered into by the State or a State agency, with or without a court's participation, that ends (i) a dispute, lawsuit, or part of the dispute or lawsuit or (ii) the involvement of the State or State agency in the dispute, lawsuit, or part of the dispute or lawsuit. This term includes settlement agreements, stipulation agreements, consent judgments, and consent decrees.

(b) Prohibition. – The following restrictions shall apply:

(1) Funds received by the State or a State agency from a settlement or other final order or judgment of the court shall not be transferred or expended pursuant to

G.S. 143C-6-4 and shall remain unexpended until the funds are appropriated by the General Assembly. Nothing in this subdivision shall be construed to prohibit the expenditure of funds to any of the following:

- a. A party, other than the State or a State agency, to the dispute or lawsuit.
- b. A consumer entitled to a refund or the recovery of damages.
- c. An attorney awarded attorneys' fees for representing (i) a party under sub-subdivision a. of this subdivision or (ii) a consumer under sub-subdivision b. of this subdivision.

(2) The Attorney General, any subordinate who has been delegated the authority to negotiate or approve a settlement, and any private counsel retained to represent a State agency shall have no authority to include or agree to terms or conditions in any settlement that authorizes the expenditure, transfer, or award of funds to any person or entity other than any of the following:

- a. A party, other than the State or a State agency, to the dispute or lawsuit.
- b. A consumer entitled to a refund or the recovery of damages.
- c. An attorney awarded attorneys' fees for representing (i) a party under sub-subdivision a. of this subdivision or (ii) a consumer under sub-subdivision b. of this subdivision.

(c) Exception. – Subsections (b) and (e) of this section shall not apply to:

- (1) Funds received by the Department of Health and Human Services to the extent those funds represent the recovery of previously expended Medicaid funds.
- (2) Funds received by the Escheat Fund and benefit plans administered by the Department of State Treasurer.
- (3) Funds received by the Department of Transportation to the extent those funds represent the recovery of funds previously expended by the Department of Transportation.

(d) Recommendation. – The Attorney General may provide a nonbinding written recommendation to the chairs of the Senate and House Appropriations Committees for their consideration as to what purpose the funds subject to the prohibition in subsection (b) of this section should be appropriated for.

(e) Overrealized Receipts. – Any provision of law authorizing the expenditure of overrealized receipts shall not apply to the funds referred to in subdivision (1) of subsection (b) of this section unless the language of the law specifically references this section or specifically references funds received by the State or a State agency from a settlement or other final order or judgment of the court.

(f) Required Disposition. – If the terms of a federal grant, another provision of State or federal law, or the State Constitution require a specific disposition of funds received from a settlement or other final order or judgment of the court, nothing in this section shall be construed to supersede, or authorize a deviation from, that specific disposition. Furthermore, nothing in this subsection shall be construed to abrogate the requirement that funds drawn from the State treasury be in consequence of appropriations made by law.

(g) Required Submission. – In addition to any other report or filing that may be required by law, and unless the settlement is sealed pursuant to a written order of the court in accordance with G.S. 132-1.3 or federal law, the Attorney General's Office shall submit a copy to the Legislative Library of any settlement or other final order or judgment of the court in which the State or a State agency receives funds in excess of seventy-five thousand dollars (\$75,000). The submission

required by this subsection shall be made within 60 days of the date (i) the settlement is entered into or (ii) the final order or judgment of the court is entered. Any information deemed confidential by State or federal law shall be redacted from the copy of the settlement or other final order or judgment of the court prior to submitting it to the Legislative Library. (2014-100, s. 6.6(a); 2015-67, s. 5; 2017-57, s. 34.7A.)

**§ 114-2.5. Attorney General to report payment of public monies pursuant to settlement agreements and final court orders.**

(a) Not less than 30 days prior to the disbursement of funds received by the State or a State agency pursuant to a settlement agreement or final order or judgment of the court where the amount of funds received exceeds seventy-five thousand dollars (\$75,000), the Attorney General shall file a written report with the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives on the payments received by the State or a State agency. The Attorney General shall also report on the terms or conditions of payment and of any disbursements set forth in the agreement or order. The Attorney General shall submit a written report to the Fiscal Research Division of the General Assembly.

(b) This section only applies to executed settlement agreements and final orders or judgments of the court and shall in no way affect the authority of the Attorney General to negotiate the settlement of cases in which the State or a State department, agency, institution, or officer is a party. (1998-212, s. 18.7(b); 1999-237, s. 19(b).)

**§ 114-2.5A. Report by the Medicaid Fraud Control Unit required annually.**

By September 1 of each year, the Medicaid Fraud Control Unit of the Department of Justice shall file a written report about its activities with the Chairs of the Appropriations Subcommittees on Justice and Public Safety and Health and Human Services of the Senate and House of Representatives and with the Fiscal Research Division of the Legislative Services Office. This report may be combined with the report required by G.S. 1-617 and shall include the following information about the Unit's activities during the previous fiscal year:

- (1) The number of matters reported to the Unit.
- (2) The number of cases investigated.
- (3) The number of criminal convictions and civil settlements.
- (4) The total amount of funds recovered in each case.
- (5) The allocation of recovered funds in each case to (i) the federal government; (ii) the State Medical Assistance Program; (iii) the Civil Penalty and Forfeiture Fund; (iv) the Department of Justice; and (v) other victims. (2010-31, s. 16.1.)

**§ 114-2.5B. Annual report on grant funds received or preapproved for receipt.**

The Department of Justice shall report by May 1 of each year to the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on grant funds received or preapproved for receipt by the Department. The report shall include information on the amount of grant funds received or preapproved for receipt by the Department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the Department intends to continue the program beyond the end of the grant period, the Department shall report on the proposed method for continuing the funding of the program at the end of the grant period. The

Department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant. (2021-180, s. 19A.1(b).)

**§ 114-2.6. Attorney General to report on pending lawsuits in which State is a party.**

By April 1 and October 1 of each year, the Attorney General shall submit a report to the Chairs of the Joint Legislative Commission on Governmental Operations, the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Finance Committees of the Senate and House of Representatives, and the Fiscal Research Division of the Legislative Services Office on any lawsuit in which the constitutionality of a North Carolina law has been challenged and on any case in which plaintiffs seek in excess of one million dollars (\$1,000,000) in damages. In addition, the Attorney General shall submit a written report to the Joint Legislative Commission on Governmental Operations, the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Finance Committees of the Senate and House of Representatives, and the Fiscal Research Division of the Legislative Services Office within 30 days of a final judgment that orders the State to pay the sum of one million dollars (\$1,000,000) or more. (2001-424, s. 23.11(a).)

**§ 114-2.7. Recodified as G.S. 143B-901 by Session Laws 2014-100, s. 17.1(g), effective July 1, 2014.**

**§ 114-3. To devote whole time to duties.**

The Attorney General shall devote his whole time to the duties of the office and shall not engage in the private practice of law. (1929, c. 1, s. 1.)

**§ 114-4. Assistants; compensation; assignments.**

The Attorney General shall be allowed to appoint from among his staff such number of assistant attorneys general as he shall deem advisable, and each of such assistant attorneys general shall be subject to all of the provisions of Chapter 126 of the General Statutes relating to the State Human Resources system. Two assistant attorneys general shall be assigned to the State Department of Revenue. The other assistant attorneys general shall perform such duties as may be assigned by the Attorney General: Provided, however, the provisions of this section shall not be construed as preventing the Attorney General from assigning additional duties to the assistant attorneys general assigned to the State Department of Revenue. (1925, c. 207, s. 1; 1937, c. 357; 1945, c. 786; 1947, c. 182; 1967, c. 260, s. 1; 1973, c. 702, s. 3; 2014-115, s. 55.4(c).)

**§ 114-4.1. Repealed by Session Laws 1973, c. 702, s. 4.**

**§ 114-4.2. Assistant attorneys general and other attorneys to assist Department of Transportation.**

The Attorney General is authorized to appoint from among his staff such assistant attorneys general and such other staff attorneys as he shall deem advisable to provide all legal assistance for the State highway functions of the Department of Transportation, and such assistant attorneys general and other attorneys shall also perform such additional duties as may be assigned to them by the Attorney General, and shall otherwise be subject to all provisions of the statutes relating to assistant attorneys general and other staff attorneys. There shall be appropriated from the State

Highway Fund such sum as may be necessary to pay the salaries of said assistant attorneys general and other attorneys and necessary secretaries. The Department of Transportation shall provide adequate office space, equipment and supplies. (1957, c. 65, s. 9; 1965, c. 55, s. 16; c. 408, s. 1; 1973, c. 702, s. 5; 1975, c. 716, s. 7; 1977, c. 464, s. 36.)

**§ 114-4.2A. Assistant attorney general assigned to State Insurance Department.**

Such assistant attorneys general as are assigned to the Commissioner of Insurance and the State Insurance Department by the Attorney General shall perform such additional duties as may be assigned to them by the Attorney General, and shall otherwise be subject to all provisions of the statutes relating to assistant attorneys general. (1967, c. 1115, s. 1; 1973, c. 702, s. 6.)

**§ 114-4.2B. Employment of attorney for University of North Carolina Hospitals at Chapel Hill.**

The Attorney General is hereby authorized to employ an attorney to be assigned by him full time to the University of North Carolina Hospitals at Chapel Hill. Such attorney shall be subject to all the provisions of Chapter 126 of the General Statutes, relating to the State Human Resources system. Such attorney shall also perform additional duties as may be assigned to him by the Attorney General.

The attorney employed by the Attorney General under provisions of this section shall be paid from the funds of the University of North Carolina Hospitals at Chapel Hill. (1975, c. 526, s. 1; 1989, c. 141, s. 3; 2014-115, s. 55.4(c).)

**§ 114-4.2C. Employment of attorney for the Real Estate Commission.**

The Attorney General is hereby authorized to employ an attorney and assign him full time to the North Carolina Real Estate Commission. Such attorney shall be subject to all the provisions of Chapter 126 of the General Statutes relating to the State Human Resources system. Such attorney shall also perform such additional duties as may be assigned to him by the Attorney General.

The North Carolina Real Estate Commission shall fully reimburse the North Carolina Department of Justice for the compensation of such attorney employed under the provisions of this section. (1975, c. 835, ss. 1, 2; 1983, c. 81, s. 1; 2014-115, s. 55.4(c).)

**§ 114-4.2D: Repealed by Session Laws 2014-4, s. 29(a), effective June 4, 2014.**

**§ 114-4.2E. Repealed by Session Laws 1981, c. 859, s. 13.10, effective July 1, 1981.**

**§ 114-4.2F. Designation of attorney specializing in the law of the handicapped.**

The Attorney General is authorized to designate from his staff an attorney to specialize in the law of the handicapped. The attorney so designated shall act as advisor to the Division of Vocational Rehabilitation, the Division of Services for the Deaf and the Hard of Hearing, the North Carolina School for the Deaf and the Governor Morehead School. (1983, c. 850, s. 1; 1989, c. 533, s. 7.)

**§ 114-4.2G: Repealed by Session Laws 2002-168, s. 6, effective October 1, 2002.**

**§ 114-4.3. Repealed by Session Laws 1973, c. 702, s. 7.**

**§ 114-4.4. Deputy attorneys general.**

The Attorney General is hereby authorized to designate from among his staff such deputy attorneys general as he shall deem advisable to perform such duties and undertake such responsibilities as he may direct. (1963, c. 355; 1973, c. 702, s. 8.)

**§ 114-5. Additional clerical help.**

The Attorney General shall be allowed such additional clerical help as shall be necessary; the amount of such help and the salary therefor shall be fixed by the Department of Administration and the Attorney General. (1925, c. 207, s. 2; 1957, c. 269, s. 1.)

**§ 114-6. Duties of Attorney General as to civil litigation.**

The Attorney General shall continue to perform all duties now required of his office by law and to exercise the duties now prescribed by law as to civil litigation affecting the State, or any agency or department thereof, and shall assign to the members of the staff all duties to be performed in connection with criminal prosecutions and civil litigation authorized by this Article or by existing laws. (1939, c. 315, ss. 7, 8.)

**§ 114-6.1. Biannual reporting on attorney activity.**

Beginning on February 1, 2013, and every six months thereafter, the Attorney General shall report on the work of Department of Justice attorneys during the previous two quarters. The reports required by this section shall be filed with the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and with the Fiscal Research Division of the General Assembly as follows:

- (1) Agency-specific work. – A report on the work of Department of Justice attorneys for State agencies. This report shall include at least all of the following information:
  - a. The amount of time spent working for each State department and agency.
  - b. The amount of time spent on each case for each State department and agency.
  - c. The amount billed to each State agency for the legal services provided.
- (2) Other work. – A report on the work of Department of Justice attorneys that is not on behalf of a particular State agency. The report required by this subdivision shall include all of the information required by subdivision (1) of this section. The report shall include at least all of the following information:
  - a. The amount of time spent by each unit of the Department of Justice.
  - b. The amount of time spent on each particular matter for each unit of the Department of Justice. (2012-142, s. 15.2)

**§ 114-7. Salary of the Attorney General.**

The salary of the Attorney General shall be set by the General Assembly in the Current Operations Appropriations Act. In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act. (1929, c. 1, s. 2; 1947, c. 1043; 1949, c. 1278; 1953, c. 1, s. 2; 1957, c. 1; 1963, c. 1178, s. 3; 1967, c. 1130; c. 1237, s. 3; 1969, c. 1214, s. 3; 1971, c. 912, s. 3; 1973, c. 778, s. 3; 1975, 2nd Sess., c. 983,

s. 18; 1977, c. 802, s. 42.14; 1983, c. 761, s. 209; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b); 2013-382, s. 9.1(c).)

**§ 114-8. Repealed by Session Laws 1969, c. 44, s. 89.**

**§ 114-8.1. Attorney General interns.**

The Attorney General may select interns to work in the Attorney General's Office from institutions of higher education, including the constituent institutions of The University of North Carolina. The Attorney General may adopt policies or rules to provide for the selection, tenure, duties, and compensation of these interns. (1985, c. 479, s. 140.)

**§ 114-8.2. Charges for legal services.**

The Department of Justice shall charge State boards and commissions that are totally supported by receipts from fees or surcharges for legal services rendered by the Department to the board or commission. Client State departments, agencies, boards, and commissions shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board. (1989, c. 500, s. 60; 2011-145, s. 16.4.)

**§ 114-8.3. Attorney General/General Counsel; review certain contracts.**

(a) Except as provided in subsections (b) and (b1) of this section, the Attorney General or the Attorney General's designee shall perform the duties required pursuant to G.S. 143-49(3a) for proposed contracts for contractual services that exceed five million dollars (\$5,000,000). The designee shall confirm that the proposed contracts are (i) in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable, and (iv) accomplish the intended purposes of the proposed contract. The designee's review does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "Attorney General's designee" includes any attorney approved by the Attorney General to review contracts as provided in this subsection. The Attorney General shall:

- (1) Establish procedures regarding the review of contracts subject to this section and shall provide any attorney designated under G.S. 143-49(3a) with guidelines to be used in reviewing contracts.
- (2) Advise and assist the Contract Management Section of the Division of Purchase and Contract, Department of Administration, in establishing procedures and guidelines for the review of contracts pursuant to G.S. 143-50.1.

(b) For the constituent institutions of The University of North Carolina, the General Counsel of each institution or the General Counsel's designee shall review all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to ensure that the proposed contracts are (i) in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable, and (iv) accomplish the intended purposes of the proposed contract. The term "review" as used in this section does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "General Counsel's designee" includes any attorney approved by the General Counsel to review contracts as provided in this subsection. The General Counsel shall establish procedures regarding the review of contracts subject to this section and shall require

that any attorney designated under this subsection comply with any procedures established by the Attorney General or the Department of Administration regarding the review of contracts.

(b1) The General Counsel of the Department of State Treasurer or the General Counsel's designee shall review all proposed investment contracts, as defined in subdivision (4) of this subsection, and all proposed contracts for investment-related services entered pursuant to the State Treasurer's authority under G.S. 147-69.3 not constituting consulting contracts, to confirm that the proposed contracts (i) are in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable to the extent governed by North Carolina law, and (iv) accomplish the intended purposes of the proposed contract. The General Counsel shall establish, in consultation with the Attorney General and the Department of Administration, procedures regarding the review of contracts subject to this subsection. The following terms and requirements apply to contracts under this subsection:

- (1) The term "review" as used in this section does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract.
- (2) The term "General Counsel's designee" includes any attorney employed or retained by the General Counsel to review contracts as provided in this subsection.
- (3) Any contract for services reviewed pursuant to this subsection must include the signature of the General Counsel or the General Counsel's designee confirming that the Department of State Treasurer has adhered to the procedures established by the General Counsel regarding the review of the contract. Except for a contract entered into as part of direct trading of bonds, instruments, equity securities, or other approved securities, a contract that has not been signed as required by this subdivision is voidable by the State, and any party or parties to the contract are entitled to receive the value of services rendered prior to the termination of the contract.
- (4) For the purposes of this subsection, "investment contract" means any of the following:
  - a. Investments to be acquired, held, or sold, directly or indirectly, by or for the State Treasurer, the Department of State Treasurer, or an investment entity created by the Department of State Treasurer, either on its own behalf or on behalf of another beneficial owner.
  - b. Investments administered by the North Carolina Supplemental Retirement Board of Trustees.

(c) All State agencies, the constituent institutions of The University of North Carolina, or any person who will be entering into a contract on behalf of the State for supplies, materials, printing, equipment, or contractual services that exceeds one million dollars (\$1,000,000) shall notify the Secretary of the Department of Administration or the Secretary's designee of the intent to enter into the contract and provide information as required by the Department for the purposes of maintaining a centralized log of contracts and identifying the location of the contract documents. (2010-194, s. 16; 2011-326, s. 15(p); 2013-234, s. 1.)

#### **§ 114-8.4. Legislative assistance to agencies and local governments.**

The Department of Justice may (i) prepare bills to be presented to the General Assembly at the request of the Governor and the officials and departments of the State and advise in connection

therewith and (ii) advise with and assist counties, cities, and towns in the drafting of legislation to be submitted to the General Assembly. (2011-97, s. 2.)

**§ 114-8.5. Itemized billing for legal services provided to State agencies.**

Whenever the Department of Justice charges a State agency, board, or commission for legal services rendered by the Department, the Department shall do so by providing the agency, board, or commission with an invoice that includes at least all of the following information for all charges:

- (1) The case or matter for which the agency, board, or commission is being charged.
- (2) The name of each attorney who worked on each case or matter and the number of hours worked by each attorney.
- (3) The hourly rate being charged by each attorney. (2012-142, s. 15.1.)

**§ 114-8.6. Designation of State Crime Laboratory as Internet Crimes Against Children affiliated agency.**

The Attorney General shall designate the North Carolina State Crime Laboratory as a North Carolina Internet Crimes Against Children (ICAC) affiliated agency. (2013-360, s. 17.6(p).)

**§ 114-8.7. Reports of animal cruelty and animal welfare violations.**

(a) The Attorney General shall establish a hotline to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes, against animals under private ownership, by means including telephone, electronic mail, and Internet Web site. The Attorney General shall periodically publicize the hotline telephone number, electronic mail address, Internet Web site address, and any other means by which the Attorney General may receive reports of allegations of animal cruelty or violations of the Animal Welfare Act. Any individual who makes a report under this section shall disclose his or her name and telephone number and any other information the Attorney General may require.

(b) When the Attorney General receives allegations involving activity that the Attorney General determines may involve cruelty to animals under private ownership in violation of Article 47 of Chapter 14 of the General Statutes, the allegations shall be referred to the appropriate local animal control authority for the unit or units of local government within which the violations are alleged to have occurred. When the Attorney General receives allegations involving activity that the Attorney General determines may involve violations of the Animal Welfare Act, the allegations shall be referred to the Department of Agriculture and Consumer Services. The Attorney General shall record the total number of reports received on the hotline and the number of reports received against any individual on the hotline.

(c) Notwithstanding other provisions of law, the Department of Justice is authorized to spend any federal, State, local, or private funds available for this purpose to administer the provisions of this section.

(d) Notwithstanding G.S. 147-33.72C and related provisions of law, in order to expedite the timely implementation of technology systems to record and manage public allegations and complaints received pursuant to this section, the Department of Justice is exempted from external agency project approval standards. (2015-286, s. 4.36(a).)

Article 2.

Division of Legislative Drafting and Codification of Statutes.

**§§ 114-9, 114-9.1: Recodified as Article 7D of Chapter 120, G.S. 120-36.21 and G.S. 120-36.22, by Session Laws 2011-97, s. 1, effective June 1, 2011.**

Article 2A.

Transparency in Third-Party Contracting by Attorney General.

**§ 114-9.2. Title.**

This Article shall be known and may be cited as the "Transparency in Private Attorney Contracts Act (TIPAC)." (2014-110, s. 1.1.)

**§ 114-9.3. Definitions.**

The following definitions apply in this Article:

- (1) Contingency fee contract. – A contract entered into by a State agency to retain private counsel that contains a contingency fee arrangement, including, but not limited to, pure contingency fee agreements and hybrid agreements, including a contingency fee aspect.
- (2) Government attorney. – An attorney employed by the State as a staff attorney in a State agency.
- (3) Private attorney. – An attorney in private practice or employed by a private law firm.
- (4) State. – The State of North Carolina, including State officers, departments, boards, commissions, divisions, bureaus, councils, and units of organization, however designated, of the executive branch of State government and any of its agents.
- (5) State agency. – Every agency, institution, department, bureau, board, or commission of the State of North Carolina authorized by law to retain private counsel. (2014-110, s. 1.1.)

**§ 114-9.4. Procurement.**

(a) A State agency may not enter into a contingency fee contract with a private attorney unless the Attorney General makes a written determination prior to entering into the contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:

- (1) Whether there exist sufficient and appropriate legal and financial resources within the Attorney General's office to handle the matter.
- (2) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly.
- (3) The geographic area where the attorney services are to be provided.
- (4) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney's experience with similar issues or cases.

(b) If the Attorney General makes the determination described in subsection (a) of this section, the Attorney General shall request proposals from private attorneys to represent the State agency on a contingency fee basis and draft a written request for proposals from private attorneys, unless the Attorney General determines that requesting proposals is not feasible under the

circumstances and sets forth the basis for this determination in writing. A request for proposals under this provision is not subject to Article 3 of Chapter 143 of the General Statutes. Until the conclusion of the legal proceeding or other matter for which the services of the private attorney were sought, all proposals received shall be maintained by the Attorney General and shall not be deemed a public record within the meaning of Chapter 132 of the General Statutes. All proposals maintained under this subsection shall be made available to the State Auditor for oversight purposes, upon request.

(c) A private attorney who submits a proposal under this section shall simultaneously pay a fee in the amount of fifty dollars (\$50.00). All fees collected under this subsection shall be used for the maintenance of the Attorney General's Web site. (2014-110, s. 1.1.)

#### **§ 114-9.5. Contingency Fees.**

(a) The Attorney General may not give permission under G.S. 114-2.3 for a State agency to enter into a contingency fee contract that provides for the private attorney to receive an aggregate contingency fee, exclusive of reasonable costs and expenses, in excess of:

- (1) Twenty-five percent (25%) of any damages up to ten million dollars (\$10,000,000); plus
- (2) Twenty percent (20%) of any portion of such damages between ten million dollars (\$10,000,000) and fifteen million dollars (\$15,000,000); plus
- (3) Fifteen percent (15%) of any portion of such damages between fifteen million dollars (\$15,000,000) and twenty million dollars (\$20,000,000); plus
- (4) Ten percent (10%) of any portion of such damages between twenty million dollars (\$20,000,000) and twenty-five million dollars (\$25,000,000); plus
- (5) Five percent (5%) of any portion of such damages exceeding twenty-five million dollars (\$25,000,000).

(b) In no event shall the aggregate contingency fee exceed fifty million dollars (\$50,000,000), exclusive of reasonable costs and expenses, and irrespective of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery.

(c) A contingency fee shall not be based on penalties or civil fines awarded or any amounts attributable to penalties or civil fines. (2014-110, s. 1.1.)

#### **§ 114-9.6. Control.**

(a) Decisions regarding disposition of the case are reserved exclusively to the discretion of the State agency in consultation with a government attorney.

(b) The Attorney General shall develop a standard addendum to every contract for contingency fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the State agency, including, without limitation, the requirement listed in subsection (a) of this section. (2014-110, s. 1.1.)

#### **§ 114-9.7. Oversight.**

(a) Until the conclusion of the legal proceeding or other matter for which the services of the private attorney have been retained, the executed contingency fee contract and the Attorney General's written determination pursuant to G.S. 114-9.4 shall not be deemed a public record within the meaning of Chapter 132 of the General Statutes. All records maintained under this subsection shall be made available to the State Auditor for oversight purposes, upon request.

(b) The amount of any payment of contingency fees pursuant to a contingency fee contract subject to this Article shall be posted on the Attorney General's Web site within 15 days after the payment of those contingency fees to the private attorney and shall remain posted on the Web site for at least 365 days thereafter.

(c) Any private attorney under contract to provide services to a State agency on a contingency fee basis shall maintain all records related to the contract in accordance with the Revised North Carolina Rules of Professional Conduct.

(d) By February 1 of each year following a year in which a State agency entered into a contingency fee contract with a private attorney, the Attorney General shall submit a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. To the fullest extent possible without waiving the evidentiary privileges of the State in any pending matters, the report shall:

- (1) Identify each new contingency fee contract entered into during the year and each previously executed contingency fee contract that remains current during any part of the year.
- (2) Include the name of the private attorney with whom the department has contracted in each instance, including the name of the attorney's law firm.
- (3) Describe the nature and status of the legal matter that is the subject of each contract.
- (4) Provide the name of the parties to each legal matter.
- (5) Disclose the amount of recovery.
- (6) Disclose the amount of any contingency fee paid.
- (7) Include copies of any written determinations made under G.S. 114-9.4. (2014-110, s. 1.1.)

**§ 114-9.8. No expansion of authority.**

Nothing in this Article shall be construed to expand the authority of any State agency or officer or employee of this State to enter into contracts for legal representation where no authority previously existed. (2014-110, s. 1.1.)

Article 3.

Division of Criminal Information.

**§§ 114-10 through 114-10.1: Recodified as G.S. 143B-902 through 143B-905 by Session Laws 2014-100, s. 17.1(h), effective July 1, 2014.**

**§ 114-11. Repealed by Session Laws 1969, c. 1190, s. 57.**

**§ 114-11.1. Repealed by Session Laws 1965, c. 310, s. 4.**

**§§ 114-11.2 through 114-11.5. Reserved for future codification purposes.**

Article 3A.

Special Prosecution Division.

**§ 114-11.6. Division established; duties.**

There is hereby established in the office of the Attorney General of North Carolina, a Special Prosecution Division. The attorneys assigned to this Division shall be available to prosecute or assist in the prosecution of criminal cases when requested to do so by a district attorney and the Attorney General approves. In addition, these attorneys assigned to this Division shall serve as legal advisers to the State Bureau of Investigation and the Police Information Network and perform any other duties assigned to them by the Attorney General. (1973, c. 47, s. 2; c. 813.)

Article 4.

State Bureau of Investigation.

Part 1. General Powers and Duties of the State Bureau of Investigation.

**§ 114-12: Recodified as G.S. 143B-915 by Session Laws 2014-100, s. 17.1(j), effective July 1, 2014.**

**§ 114-12.1. Minority sensitivity training for law enforcement personnel.**

(a) The Department of Justice shall develop guidelines for minority sensitivity training for all law enforcement personnel throughout the State. The Department shall ensure that all persons who work with minority juveniles in the juvenile justice system are taught how to communicate effectively with minority juveniles and how to recognize and address the needs of those juveniles. The Department shall also advise all law enforcement and professionals who work within the juvenile justice system of ways to improve the treatment of minority juveniles so that all juveniles receive equal treatment. Except where local law enforcement or the Division of Juvenile Justice of the Department of Public Safety has existing minority sensitivity training that meets the Department guidelines, the Department shall conduct the minority sensitivity training annually. Prior to the training each year, the Department shall assess whether minorities are receiving fair and equal treatment in the juvenile justice system with regard to the administration of predisposition procedures, of diversion methods, of dispositional alternatives, and of treatment and post-release supervision plans.

(b) The Division of Juvenile Justice of the Department of Public Safety shall ensure that all juvenile court counselors and other Division personnel receive the minority sensitivity training specified in subsection (a) of this section. The Division of Juvenile Justice of the Department of Public Safety is responsible for creating, implementing, and evaluating juvenile minority sensitivity and racial and ethnic disparities training annually. (1998-202, s. 17; 2000-137, s. 4(i); 2003-214, s. 1; 2011-145, s. 19.1(l); 2017-186, s. 2(www); 2021-180, s. 19C.9(z); 2023-114, s. 4(d).)

**§ 114-13: Repealed by Session Laws 2014-100, s. 17.1(f), effective July 1, 2014.**

**§ 114-14: Recodified as G.S. 143B-917 by Session Laws 2014-100, s. 17.1(j), effective July 1, 2014.**

**§ 114-14.1: Recodified as G.S. 143B-918 by Session Laws 2014-100, s. 17.1(j), effective July 1, 2014.**

**§§ 114-15 through 114-15.3: Recodified as G.S. 143B-919 through 143B-922 by Session Laws 2014-100, s. 17.1(j), effective July 1, 2014.**

**§§ 114-16 through 114-16.2: Recodified as Article 9 of Chapter 114, G.S. 114-60 through 114-62, by Session Laws 2013-360, s. 17.6(d), effective July 1, 2013.**

**§ 114-17: Recodified as G.S. 143B-923 by Session Laws 2014-100, s. 17.1(j), effective July 1, 2014.**

**§ 114-17.1: Repealed by Session Laws 1995, c. 507, s. 6.**

**§ 114-18: Recodified as G.S. 143B-924 by Session Laws 2014-100, s. 17.1(j), effective July 1, 2014.**

**§ 114-18.1: Repealed by Session Laws 2000-119, s. 6, effective December 1, 2000.**

**§ 114-19: Recodified as G.S. 143B-906 by Session Laws 2014-100, s. 17.1(k), effective July 1, 2014.**

Part 2. Criminal History Record Checks.

**§ 114-19.01: Recodified as G.S. 143B-925 by Session Laws 2014-100, s. 17.1(l), effective July 1, 2014.**

**§ 114-19.1: Recodified as G.S. 143B-930 by Session Laws 2014-100, s. 17.1(m), effective July 1, 2014.**

**§§ 114-19.2 through 114-19.34: Recodified as G.S. 143B-931 through 143B-965 by Session Laws 2014-100, s. 17.1(m), effective July 1, 2014.**

**§§ 114-19.35 through 114-19.49: Recodified as G.S. 143B-966 through 143B-980 by Session Laws 2014-100, s. 17.1(m), effective July 1, 2014.**

**§ 114-19.50: Recodified as G.S. 143B-981 by Session Laws 2014-100, s. 17.1(m), effective July 1, 2014.**

Part 3. Protection of Public Officials.

**§§ 114-20, 114-20.1: Recodified as Subpart E of Part 4 of Article 13 of Chapter 143B, G.S. 143B-986 and G.S. 143B-987, by Session Laws 2014-100, s. 17.1(n), effective July 1, 2014.**

**§ 114-21: Recodified as G.S. 114-12.1 by Session Laws 2003-214, s. 1(4), effective June 19, 2003.**

**§§ 114-22 through 114-25. Reserved for future codification purposes.**

Article 5.

Law Enforcement Officers' Minimum Salary Act.

**§§ 114-26 through 114-39: Repealed by Session Laws 1983, c. 781.**

Article 6.

Office of the Inspector General.

**§§ 114-40 through 114-42: Repealed by Session Laws 2001-424, s. 23.10, effective January 1, 2002.**

Article 7.

Methamphetamine Watch Program.

**§ 114-43. Methamphetamine Watch Program – good faith actions immune from civil and criminal liability.**

Anyone who, in good faith, does any of the acts listed in subdivisions (1) through (3) of this section as part of a Methamphetamine Watch Program approved by the Department of Justice is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action. In any proceeding involving liability, good faith is presumed. The actions for which immunity is granted under this section are as follows:

- (1) The person files a report with a law enforcement agency concerning the purchase or theft of ingredients used to manufacture methamphetamine.
- (2) The person cooperates in any law enforcement investigation concerning the manufacture of methamphetamine.
- (3) The person testifies in any judicial proceeding concerning the manufacture of methamphetamine. (2004-178, s. 9.)

**§ 114-44. Reserved for future codification purposes.**

**§ 114-45. Reserved for future codification purposes.**

**§ 114-46. Reserved for future codification purposes.**

**§ 114-47. Reserved for future codification purposes.**

**§ 114-48. Reserved for future codification purposes.**

**§ 114-49. Reserved for future codification purposes.**

Article 8.

Financial Literacy Council.

**§ 114-50. Financial Literacy Council established; purpose.**

There is established within the Department of Justice the North Carolina Financial Literacy Council (Council). The Council shall monitor and assist the Department of Public Instruction in the coordination of statewide delivery of financial education within the public school system, shall identify programs designed to increase the financial literacy of North Carolinians outside the public school system, and shall work to expand access to financial education resources and programs in communities across North Carolina. (2009-265, s. 1.)

**§ 114-51. Membership; terms; quorum.**

(a) The Council shall consist of 18 members appointed by and serving at the pleasure of the Governor. The Governor shall designate a chair from among the members of the Council. Membership shall be as follows:

- (1) Ten members from government agencies with responsibility for programs and services related to financial education, financial services, and related economic stability efforts. At least one representative shall come from each of the following government agencies:
  - a. Community College System.
  - b. Department of Commerce.
  - c. Department of Justice.
  - d. Department of Labor.
  - e. Department of Public Instruction.
  - f. Department of the Secretary of State.
  - g. Department of State Treasurer.
  - h. Office of the Commissioner of Banks.
  - i. The University of North Carolina.
- (2) Two public members with experience in the financial services industry.
- (3) Two public members who represent employers with experience in providing financial education to their employees.
- (4) Four public members with experience in consumer advocacy or nonprofit financial education.

(b) Members of the Council shall be appointed for terms of three years and shall serve until their successors are appointed and qualified.

(c) A majority of the Council's members shall constitute a quorum. (2009-265, s. 1.)

**§ 114-52. Staffing.**

The Department of Justice shall provide administrative and staff support to the Council. (2009-265, s. 1.)

**§ 114-53. Duties.**

The Council shall meet at least quarterly and shall perform the following duties:

- (1) Study and document current financial education programs in North Carolina and best practices across the country.
- (2) Coordinate activities related to financial education and asset building that occur within various government agencies, private enterprise, and the nonprofit sector to ensure dissemination of resources and information to households across the State.
- (3) Propose public and private policy, organizational changes, and systemic changes to ensure all North Carolinians have access to training about necessary financial skills and experience with financial services.
- (4) Consider and make recommendations specifically to address the following issues:
  - a. Current personal financial literacy programs in the public schools and how to integrate financial education in K-12 to ensure that young people are prepared for financial success.

- b. Unique financial issues facing students in higher education and how to address those issues through the community colleges and public and private university systems.
  - c. Creation of and access to financial products that provide hands-on learning of financial skills.
- (5) Monitor the outcomes of financial education programs, focusing specifically on the following indicators: improved financial knowledge, improved financial behaviors, and increased access to and use of affordable financial services.
  - (6) Use the talents, expertise, and resources within the State, especially those of the public schools, community colleges, and public and private university systems, as well as the bank and credit union industries, to further its mission.
  - (7) Report annually to the General Assembly and the Governor on the performance of its prescribed duties and on the impact of the financial education activities conducted by State agencies. (2009-265, s. 1.)

**§ 114-54. Compensation and expenses of members.**

Public members of the Financial Literacy Council may receive subsistence and travel expenses at the rates set forth in G.S. 138-5 or G.S. 138-6, as appropriate. (2009-265, s. 1.)

**§ 114-55. State officers, etc., upon request, to furnish data and information to the Council.**

Except as provided in G.S. 105-259, all officers, agents, agencies, and departments of the State are required to give to the Council, upon request, all information and all data that are within their possession or ascertainable from their records and that are pertinent to financial education activities. (2009-265, s. 1.)

**§ 114-56: Reserved for future codification purposes.**

**§ 114-57: Reserved for future codification purposes.**

**§ 114-58: Reserved for future codification purposes.**

**§ 114-59: Reserved for future codification purposes.**

Article 9.

North Carolina State Crime Laboratory.

**§ 114-60. Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by State; radio system.**

In the Department of Justice there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated with the commission of crime, examination and analysis of projectiles of ballistic imprints and records which might lead to the determination or identification of criminals, the examination and identification of fingerprints, and other evidence leading to the identification, apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters shall be employed to render a reasonable service to the public through the criminal justice system and to the criminal justice system in the discharge of their duties.

The laboratory and clinical facilities of the institutions of the State, both educational and departmental, shall be made available to the Laboratory, and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the Laboratory in the evaluation, preparation, and preservation of evidence in which scientific methods are employed, and a reasonable fee may be allowed by the Governor for such service. (1937, c. 349, s. 7; 2003-214, s. 1(1); 2011-19, s. 10; 2013-360, s. 17.6(d), (m).)

**§ 114-61. Forensic Science Advisory Board.**

(a) **Creation and Membership.** – The North Carolina Forensic Science Advisory Board (Board) is hereby established as an advisory board within the Department of Justice. The Board shall consist of 15 members, consisting of the State Crime Laboratory Director, and 14 members appointed by the Attorney General as follows:

- (1) A forensic scientist or any other person with an advanced degree who has received substantial education, training, or experience in the subject of laboratory standards or quality assurance regulation and monitoring.
- (2) The Chief Medical Examiner of the State.
- (3) A forensic scientist with an advanced degree who has education, training, or experience in the discipline of molecular biology.
- (4) A forensic scientist with an advanced degree who has experience in the discipline of population genetics.
- (5) A scientist with an advanced degree who has experience in the discipline of forensic chemistry.
- (6) A scientist with an advanced degree who has experience in the discipline of forensic biology.
- (7) A forensic scientist or any other person with an advanced degree who has education, training, or experience in the discipline of trace evidence.
- (8) A scientist with an advanced degree who has experience in the discipline of forensic toxicology.
- (9) A member of the International Association for Identification.
- (10) A member of the Association of Firearms and Tool Mark Examiners.
- (11) A member of the International Association for Chemical Testing.
- (12) Repealed by Session Laws 2014-115, s. 46, effective August 11, 2014.
- (13) A member of the American Society of Crime Laboratory Directors.
- (14) A member of the Academy of Forensic Sciences.
- (15) A member of the American Statistical Association.

A chairman shall be elected from among the members appointed, and staff shall be provided by the Department of Justice.

(b) **Meetings.** – The Board shall meet biannually and at such other times and places as it determines. Members of the Board cannot designate a proxy to vote in their absence.

(c) **Terms.** – Members of the Board initially appointed shall serve the following terms: five members shall serve a term of two years; five members shall serve a term of three years; and five members shall serve a term of four years. Thereafter, all appointments shall be for a term of four years. A vacancy other than by expiration of term shall be filled by the Attorney General for the unexpired term. Members of the Board cannot designate a proxy to vote in their absence.

(d) **Terms.** – **Expenses.** – Members of the Board shall be paid reasonable and necessary expenses incurred in the performance of their duties. Members of the Board who are State officers

or employees shall receive no compensation for serving on the Board but may be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Board who are full-time salaried public officers or employees other than State officers or employees shall receive no compensation for serving on the Board but may be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Board may receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

(e) Functions. – The Board may review State Crime Laboratory operations and make recommendations concerning the services furnished to user agencies. The Board shall review and make recommendations as necessary to the Laboratory Director concerning any of the following:

- (1) New scientific programs, protocols, and methods of testing.
- (2) Plans for the implementation of new programs; sustaining existing programs and improving upon them where possible; and the elimination of programs which are no longer needed.
- (3) Protocols for testing and examination methods and guidelines for the presentation of results in court.
- (4) Qualification standards for the various forensic scientists of the Laboratory.

(f) Review Process. – Upon request of the Laboratory Director, the Board shall review analytical work, reports, and conclusions of scientists employed by the Laboratory. Records reviewed by this Board retain their confidential status and continue to be considered records of a criminal investigation as defined in G.S. 132-1.4. These records shall be reviewed only in a closed session meeting pursuant to G.S. 143-318.11 of the Board, and each member of the Board shall, prior to receiving any documents to review, sign a confidentiality agreement agreeing to maintain the confidentiality of and not to disclose the documents nor the contents of the documents reviewed. The Board shall recommend to the Laboratory a review process to use when there is a request that the Laboratory retest or reexamine evidence that has been previously examined by the Laboratory. (2011-19, s. 2; 2013-360, s. 17.6(d); 2014-115, s. 46.)

#### **§ 114-62. North Carolina State Crime Laboratory Ombudsman.**

The position of ombudsman is created in the North Carolina State Crime Laboratory within the North Carolina Department of Justice. The primary purpose of this position shall be to work with defense counsel, prosecutorial agencies, criminal justice system stakeholders, law enforcement officials, and the general public to ensure all processes, procedures, practices, and protocols at the State Crime Laboratory are consistent with State and federal law, best forensic law practices, and in the best interests of justice in this State. The ombudsman shall mediate complaints brought to the attention of the ombudsman between the Crime Laboratory and defense counsel, prosecutorial agencies, law enforcement agencies, and the general public. The ombudsman shall ensure all criminal justice stakeholders and the general public are aware of the availability, responsibilities, and role of the ombudsman and shall regularly attend meetings of the Conferences of the District Attorneys, District and Superior Court Judges, Public Defenders, the Advocates for Justice, and Bar Criminal Law Sections. The ombudsman shall make recommendations on a regular basis to the Director of the State Crime Laboratory and the Attorney General of North Carolina as to policies, procedures, practices, and training of employees needed at the Laboratory to ensure compliance with State and federal law, best forensic law practices, and to resolve any meritorious systemic complaints received by the ombudsman. (2011-19, s. 6(a); 2013-360, s. 17.6(d), (n).)

#### **§ 114-63. Transfer of personnel.**

The Director of the North Carolina State Crime Laboratory shall have authority to transfer employees of the Crime Laboratory from one Crime Laboratory location in the State to another, or between Sections of the Laboratory, as the Director may deem necessary. When any member of the Crime Laboratory is transferred from one location to another for the convenience of the Crime Laboratory, or otherwise than upon the request of the employee, the Crime Laboratory shall be responsible for transporting the household goods, furniture, and personal effects of the employee and members of his or her household. (2013-360, s. 17.6(q); 2014-100, s. 17.7(b).)

**§ 114-63.1. No hiring of sworn personnel to fill vacant positions.**

The Department of Justice shall not hire sworn personnel to fill vacant positions in the North Carolina State Crime Laboratory. Nothing in this section shall be construed to require the termination of sworn personnel or to affect North Carolina State Crime Laboratory personnel who are sworn and employed by the Laboratory as of July 1, 2021 and who continue to meet the sworn status retention standards mandated by the North Carolina Criminal Justice Education and Standards Commission. (2021-180, s. 18.1.)

**§ 114-64. SBI and State Crime Laboratory access to view and analyze recordings.**

Any State or local law enforcement agency that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view and analyze the recording upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory. (2016-88, s. 2(c).)

**§ 114-65. Statewide sexual assault evidence collection kit tracking system.**

(a) Legislative Intent. – The General Assembly finds that the preservation and testing of sexual assault evidence collection kits (SAECK or "kit") are important to public safety. Timely testing is vital to solve cases, punish offenders, bring justice to victims, and prevent future crimes. It is the intent of the General Assembly that every sexual assault evidence collection kit in North Carolina be tested. Sexual assault victims deserve no less.

(b) Establishment of System. – There is established in the State Crime Laboratory the Statewide Sexual Assault Evidence Collection Kit Tracking System (the System). All sexual assault evidence collection kits purchased or distributed under G.S. 143B-1201 on or after October 1, 2018, shall be trackable and shall comply with the requirements of the System. The Director of the State Crime Laboratory (Director) shall implement protocols and administer the System. The Secretary of the Department of Public Safety (Secretary) shall adopt rules, guidelines, and sanctions, for agencies required to participate in the System under this section. The Director shall guidelines for agencies required to participate in the System under this section. The Director shall ensure that the System protects victim information against disclosure to nonparticipating agencies. Except as otherwise required for reporting under subsection (f) of this section, information maintained in the System is confidential and not a public record as defined in G.S. 132-1.

(c) Required Participation. – All medical providers, law enforcement agencies, forensic laboratories, or other persons or entities having custody or use of any sexual assault evidence collection kit in the State shall participate in the System and comply with the established protocols, rules, and guidelines. A participating entity shall be permitted to access the entity's tracking information through the System.

(d) Victim's Access to View Status of Kit. – It is the policy of the State to ensure that a victim of sexual assault or attempted sexual assault is able to track the location of the sexual assault evidence collection kit used to conduct the victim's forensic medical examination and that the victim is also able to determine whether forensic testing of the kit has been completed.

(e) Tracking of Previously Untested Kits. – The Director shall implement protocols and the Secretary shall adopt rules and guidelines to ensure that previously untested sexual assault evidence collection kits are trackable and are entered into the System. Any law enforcement agency, medical provider, or forensic laboratory that has in its custody a previously untested sexual assault evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules, and guidelines with respect to all untested kits.

For purposes of this subsection, a "previously untested sexual assault evidence collection kit" means any kit that has not undergone forensic testing and was identified and included in the 2017 statewide inventory of kits in law enforcement custody pursuant to Section 17.7 of S.L. 2017-57. To the extent practicable, and consistent with protecting victim confidentiality for unreported sexual assaults, a law enforcement agency having custody of a kit governed by this subsection shall take reasonable measures to provide appropriate tracking information to the affected victim.

(f) Annual Report to the General Assembly. – Beginning October 1, 2019, and annually thereafter, the Director shall report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for the previous fiscal year:

- (1) The number of tracking-enabled kits shipped to medical facilities or medical providers.
- (2) The number of tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations of sexual assault or attempted sexual assault victims.
- (3) Of the tracking-enabled kits used by medical facilities or medical providers to conduct forensic medical examinations, the number of kits for which a sexual assault has been reported to law enforcement, sorted by law enforcement agency.
- (4) Of the tracking-enabled kits generated for reported cases, the number of kits submitted to a laboratory for forensic testing.
- (5) Of the tracking-enabled kits submitted for forensic testing, the number of kits for which forensic testing has been completed.
- (6) The number of tracking-enabled kits for which a sexual assault has not been reported, including the total submitted to local law enforcement and the total submitted to Department of Public Safety Law Enforcement Support Services.
- (7) Information regarding efforts to track and test previously untested kits described in subsection (e) of this section. (2018-70, s. 1.)

**§ 114-66: Reserved for future codification purposes.**

**§ 114-67: Reserved for future codification purposes.**

**§ 114-68: Reserved for future codification purposes.**

**§ 114-69: Reserved for future codification purposes.**

Article 10.

North Carolina Human Trafficking Commission.

**§ 114-70: G.S. 114-70 was recodified as G.S. 7A-354 by Session Laws 2018-5, s. 18B.7, as added by Session Laws 2018-97, s. 5.6(a), effective July 1, 2018.**