

## **Chapter 15.**

### **Criminal Procedure.**

#### **Article 1.**

##### **General Provisions.**

###### **§ 15-1. Statute of limitations for misdemeanors.**

The crimes of deceit and malicious mischief, and the crime of petit larceny where the value of the property does not exceed five dollars (\$5.00), and all misdemeanors except malicious misdemeanors, shall be charged within two years after the commission of the same, and not afterwards: Provided, that if any pleading shall be defective, so that no judgment can be given thereon, another prosecution may be instituted for the same offense, within one year after the first shall have been abandoned by the State. (1826, c. 11; R.C., c. 35, s. 8; Code, s. 1177; Rev., s. 3147; 1907, c. 408; C.S., s. 4512; 1943, c. 543; 2017-57, s. 17.8(a); 2017-212, s. 5.3.)

###### **§§ 15-2 through 15-3. Repealed by Session Laws 1973, c. 1286, s. 26.**

###### **§ 15-4. Accused entitled to counsel.**

Every person, accused of any crime whatsoever, shall be entitled to counsel in all matters which may be necessary for his defense. (1777, c. 115, s. 85, P.R.; R.C., c. 35, s. 13; Code, s. 1182; Rev., s. 3150; C.S., s. 4515.)

###### **§§ 15-4.1 through 15-5.1. Repealed by Session Laws 1969, c. 1013, s. 12.**

###### **§ 15-5.2. Repealed by Session Laws 1969, c. 1013, s. 6.**

###### **§§ 15-5.3 through 15-5.4. Repealed by Session Laws 1969, c. 1013, s. 12.**

###### **§ 15-6. Imprisonment to be in county jail.**

No person shall be imprisoned except in the common jail of the county, unless otherwise provided by law: Provided, that whenever the sheriff of any county shall be imprisoned, he may be imprisoned in the jail of any adjoining county. (1797, c. 474, s. 3, P.R.; R.C., c. 35, s. 6; 1879, c. 12; Code, s. 1174; Rev., s. 3151; C.S., s. 4517; 1973, c. 1141, s. 1.)

###### **§ 15-6.1. Changing place of confinement of prisoner committing offense.**

In all cases where a defendant has been convicted in a court inferior to the superior court and sentenced to a term in the county jail or to serve in some county institution other than under the supervision of the State Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and such defendant is subsequently brought before such court for an offense committed prior to the expiration of the term to be served in such county institution, upon conviction, plea of guilty or nolo contendere, the judge shall have the power and authority to change the place of confinement of the prisoner and commit such defendant to work under the supervision of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This provision shall apply whether or not the terms of the new sentence are to run concurrently with or consecutive to the remaining portion of the old sentence. (1953, c. 778; 1957, c. 65, s. 11; 1967, c. 996, s. 16; 2011-145, s. 19.1(h); 2012-83, s. 20; 2017-186, s. 2(kk).)

**§ 15-6.2. Concurrent sentences for offenses of different grades or to be served in different places.**

When by a judgment of a court or by operation of law a prison sentence runs concurrently with any other sentence a prisoner shall not be required to serve any additional time in prison solely because the concurrent sentences are for different grades of offenses or that it is required that they be served in different places of confinement. (1955, c. 57.)

**§ 15-6.3. Credit for service of sentence while in another jurisdiction.**

When a person in actual confinement under sentence of another jurisdiction is brought for trial before a court of this State, the court may, upon sentencing, specifically impose a sentence to be concurrently served and direct that such person receive credit against the sentence imposed for all time subsequently served in the jurisdiction possessing physical custody of such person. (1971, c. 828.)

**§ 15-7. Postmortem examinations directed.**

In all cases of homicide, any officer prosecuting for the State may, at any time, direct a postmortem examination of the deceased to be made by one or more physicians to be summoned for the purpose; and the physicians shall be paid a reasonable compensation for such examination, the amount to be determined by the court and taxed in the costs, and if not collected out of the defendant the same shall be paid by the State. (R.C., c. 35, s. 49; Code, s. 1214; Rev., s. 3152; C.S., s. 4518; 1973, c. 1141, s. 2.)

**§ 15-8. Stolen property returned to owner.**

Upon the conviction of any person for robbing or stealing any money, goods, chattels, or other estate of any description whatever, the person from whom such goods, money, chattels or other estate were robbed or stolen shall be entitled to restitution thereof; and the court may award restitution of the articles so robbed or stolen, and make all such orders and issue such writs of restitution or otherwise as may be necessary for that purpose. (21 Hen. VIII, c. 11; R.C., c. 35, s. 34; Code, s. 1201; Rev., s. 3153; C.S., s. 4519; 1943, c. 543.)

**§ 15-9. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-10. Speedy trial or discharge on commitment for felony.**

When any person who has been committed for treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer in open court to be brought to his trial, shall not be indicted some time in the next term of the superior or criminal court ensuing such commitment, the judge of the court, upon notice in open court on the last day of the term, shall set at liberty such prisoner upon bail, unless it appear upon oath that the witnesses for the State could not be produced at the same term; and if such prisoner, upon his prayer as aforesaid, shall not be indicted and tried at the second term of the court, he shall be discharged from his imprisonment: Provided, the judge presiding may, in his discretion, refuse to discharge such person if the time between the first and second terms of the court be less than four months. (1868-9, c. 116, s. 33; Code, s. 1658; Rev., s. 3155; 1913, c. 2; C.S., s. 4521.)

**§ 15-10.1. Detainer; purpose; manner of use.**

Any person confined in the State prison system of North Carolina, subject to the authority and control of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or any person confined in any other prison of North Carolina, may be held to account for any other charge pending against him only upon a written order from the clerk or judge of the court in which the charge originated upon a case regularly docketed, directing that such person be held to answer the charge pending in such court; and in no event shall the prison authorities hold any person to answer any charge upon a warrant or notice when the charge has not been regularly docketed in the court in which the warrant or charge has been issued: Provided, that this section shall not apply to any State agency exercising supervision over such person or prisoner by virtue of a judgment, order of court or statutory authority. (1949, c. 303; 1953, c. 603; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 2011-145, s. 19.1(h); 2012-83, s. 21; 2017-186, s. 2(l).)

**§ 15-10.2. Mandatory disposition of detainees – request for final disposition of charges; continuance; information to be furnished prisoner.**

(a) Any prisoner serving a sentence or sentences within the State prison system who, during his term of imprisonment, shall have lodged against him a detainer to answer to any criminal charge pending against him in any court within the State, shall be brought to trial within eight months after he shall have caused to be sent to the district attorney of the court in which said criminal charge is pending, by registered mail, written notice of his place of confinement and request for a final disposition of the criminal charge against him; said request shall be accompanied by a certificate from the Secretary of Public Safety stating the term of the sentence or sentences under which the prisoner is being held, the date he was received, and the time remaining to be served; provided that, for good cause shown in open court, the prisoner or his counsel being present, the court may grant any necessary and reasonable continuance.

(b) The Secretary of Public Safety shall, upon request by the prisoner, inform the prisoner in writing of the source and contents of any charge for which a detainer shall have been lodged against such prisoner as shown by said detainer, and furnished the prisoner with the certificate referred to in subsection (a). (1957, c. 1067, s. 1; 1967, c. 996, s. 15; 1973, c. 47, s. 2; c. 1262, s. 10; 2011-145, s. 19.1(i).)

**§ 15-10.3. Mandatory disposition of detainees – procedure; return of prisoner after trial.**

The district attorney, upon receipt of the written notice and request for a final disposition as hereinbefore specified, shall make application to the court in which said charge is pending for a writ of habeas corpus ad prosequendum and the court upon such application shall issue such writ to the Secretary of Public Safety requiring the prisoner to be delivered to said court to answer the pending charge and to stand trial on said charge within the time hereinbefore provided; upon completion of said trial, the prisoner shall be returned to the State prison system to complete service of the sentence or sentences under which he was held at the time said writ was issued. (1957, c. 1067, s. 2; 1967, c. 996, s. 15; 1973, c. 47, s. 2; c. 1262, s. 10; 2011-145, s. 19.1(i).)

**§ 15-10.4. Mandatory disposition of detainees – exception as to prisoners who are mentally ill.**

The provisions of G.S. 15-10.2 and 15-10.3 shall not apply to any prisoner who has been transferred and assigned for observation or treatment to any unit of the prison system which is maintained for those prisoners who are mentally ill or are suffering from mental disorders. (1957, c. 1067, s. 3.)

## Article 2.

### Record and Disposition of Seized, etc., Articles.

#### **§ 15-11. Sheriffs and police departments to maintain register of personal property confiscated, seized or found.**

Each sheriff and police department in this State is hereby required to keep and maintain a book or register, and it shall be the duty of each sheriff and police department to keep a record therein of all articles of personal property which may be seized or confiscated by him or it, or of which he or it may have become possessed in any way in the discharge of his duty. Said sheriffs and police departments shall cause to be kept in said registers a description of such property, the name of the person from whom it was seized, if such name be known, the date and place of its seizure, and, where the article was not taken from the person of a suspect or prisoner, a brief recital of the place and circumstances concerning the possession thereof by such sheriff and police department. Such sheriff and police department shall also keep in said register appropriate entries showing the manner, date, and to whom said articles are disposed of or delivered, and, if sold as hereinafter provided, a record showing the disposition of the proceeds arising from such sale. (1939, c. 195, s. 1; 1973, c. 1141, s. 3.)

#### **§ 15-11.1. Seizure, custody and disposition of articles; exceptions.**

(a) If a law-enforcement officer seizes property pursuant to lawful authority, he shall safely keep the property under the direction of the court or magistrate as long as necessary to assure that the property will be produced at and may be used as evidence in any trial. Upon application by the lawful owner or a person, firm or corporation entitled to possession or upon his own determination, the district attorney may release any property seized pursuant to his lawful authority if he determines that such property is no longer useful or necessary as evidence in a criminal trial and he is presented with satisfactory evidence of ownership. If the district attorney refuses to release such property, the lawful owner or a person, firm or corporation entitled to possession may make application to the court for return of the property. The court, after notice to all parties, including the defendant, and after hearing, may in its discretion order any or all of the property returned to the lawful owner or a person, firm or corporation entitled to possession. The court may enter such order as may be necessary to assure that the evidence will be available for use as evidence at the time of trial, and will otherwise protect the rights of all parties. Notwithstanding any other provision of law, photographs or other identification or analyses made of the property may be introduced at the time of the trial provided that the court determines that the introduction of such substitute evidence is not likely to substantially prejudice the rights of the defendant in the criminal trial.

(b) In the case of unknown or unapprehended defendants or of defendants willfully absent from the jurisdiction, the court shall determine whether an attorney should be appointed as guardian ad litem to represent and protect the interest of such unknown or absent defendants. Appointment shall be in accordance with rules adopted by the Office of Indigent Defense Services. The judicial findings concerning identification or value that are made at such hearing whereby property is returned to the lawful owner or a person, firm, or corporation entitled to possession, may be admissible into evidence at the trial. After final judgment all property lawfully seized by or otherwise coming into the possession of law-enforcement authorities shall be disposed of as the

court or magistrate in its discretion orders, and may be forfeited and either sold or destroyed in accordance with due process of law.

(b1) Notwithstanding subsections (a) and (b) of this section or any other provision of law, if the property seized is a firearm and the district attorney determines the firearm is no longer necessary or useful as evidence in a criminal trial, the district attorney, after notice to all parties known or believed by the district attorney to have an ownership or a possessory interest in the firearm, including the defendant, shall apply to the court for an order of disposition of the firearm. The judge, after hearing, may order the disposition of the firearm in one of the following ways:

- (1) By ordering the firearm returned to its rightful owner, when the rightful owner is someone other than the defendant and upon findings by the court (i) that the person, firm, or corporation determined by the court to be the rightful owner is entitled to possession of the firearm and (ii) that the person, firm, or corporation determined by the court to be the rightful owner of the firearm was unlawfully deprived of the same or had no knowledge or reasonable belief of the defendant's intention to use the firearm unlawfully.
- (2) By ordering the firearm returned to the defendant, but only if the defendant is not convicted of any criminal offense in connection with the possession or use of the firearm, the defendant is the rightful owner of the firearm, and the defendant is not otherwise ineligible to possess such firearm.
- (3) By ordering the firearm turned over to be destroyed by the sheriff of the county in which the firearm was seized or by his duly authorized agent if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification. The sheriff shall maintain a record of the destruction of the firearm.
- (4) By ordering the firearm turned over to a law enforcement agency in the county of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm laws. The court may order a disposition of the firearm pursuant to this subdivision only if the firearm has a legible, unique identification number. If the law enforcement agency sells the firearm, then the proceeds of the sale shall be remitted to the appropriate county finance officer as provided by G.S. 115C-452 to be used to maintain free public schools. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this subdivision.

This subsection (b1) is not applicable to seizures pursuant to G.S. 113-137 of firearms used only in connection with a violation of Article 22 of Chapter 113 of the General Statutes or any local wildlife hunting ordinance.

(c) Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith. (1977, c. 613; 1979, c. 593; 1994, Ex. Sess., c. 16, s. 1; 2000-144, s. 27; 2005-287, s. 1; 2013-158, s. 1; 2014-115, s. 24.5.)

#### **§ 15-11.2. Disposition of unclaimed firearms not confiscated or seized as trial evidence.**

(a) Definition. – For purposes of this section, the term "unclaimed firearm" means a firearm that is found or received by a law enforcement agency and that remains unclaimed by the person who may be entitled to it for a period of 30 days after the publication of the notice required by subsection (b) of this section. The term does not include a firearm that is seized and disposed

of pursuant to G.S. 15-11.1 or a firearm that is confiscated and disposed of pursuant to G.S. 14-269.1.

(b) **Published Notice of Unclaimed Firearm.** – When a law enforcement agency finds or receives a firearm and the firearm remains unclaimed for a period of 180 days, the agency shall publish at least one notice in a newspaper published in the county in which the agency is located. The notice shall include all of the following:

- (1) A statement that the firearm is unclaimed and is in the custody of the law enforcement agency.
- (2) A statement that the firearm may be sold or otherwise disposed of unless the firearm is claimed within 30 days of the date of the publication of the notice.
- (3) A brief description of the firearm and any other information that the chief or head of the law enforcement agency may consider necessary or advisable to reasonably inform the public about the firearm.

(c) Repealed by Session Laws 2013-158, s. 2, effective September 1, 2013, and applicable to any firearm found or received by a local law enforcement agency on or after that date and to any judicial order for the disposition of any firearm on or after that date.

(d) **Disposition of Unclaimed Firearm.** – If the firearm remains unclaimed for a period of 30 days after the publication of the notice, then the head or chief of the law enforcement agency shall order the disposition of the firearm in one of the following ways:

- (1) By having the firearm destroyed if the firearm does not have a legible, unique identification number or is unsafe for use because of wear, damage, age, or modification and will not be disposed of pursuant to subdivision (3) of this subsection. The head or chief of the law enforcement agency shall maintain a record of the destruction of the firearm.
- (2) By sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm laws or by sale of the firearm at a public auction to persons licensed as firearms collectors, dealers, importers, or manufacturers. The head or chief of the law enforcement agency shall dispose of the firearm pursuant to this subdivision only if the firearm has a legible, unique identification number.
- (3) By maintaining the firearm for training or experimental purposes or transferring the firearm to a museum or historical society.

(e) Repealed by Session Laws 2013-158, s. 2, effective September 1, 2013, and applicable to any firearm found or received by a local law enforcement agency on or after that date and to any judicial order for the disposition of any firearm on or after that date.

(f) **Disbursement of Proceeds of Sale.** – If the law enforcement agency sells the firearm pursuant to subdivision (2) of subsection (d) of this section, then the proceeds of the sale shall be retained by the law enforcement agency and used for law enforcement purposes. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this section, as well as the disposition of the firearm, including any funds received from a sale of a firearm or any firearms or other property received in exchange or trade of a firearm. (2005-287, s. 2; 2013-158, s. 2; 2013-410, s. 17(a); 2014-115, s. 2.)

**§ 15-12. Publication of notice of unclaimed property; advertisement and sale or donation of unclaimed bicycles.**

(a) Unless otherwise provided herein, whenever such articles in the possession of any sheriff or police department have remained unclaimed by the person who may be entitled thereto for a period of 180 days after such seizure, confiscation, or receipt thereof in any other manner, by such sheriff or police department, the said sheriff or police department in whose possession said articles are may cause to be published one time in some newspaper published in said county a notice to the effect that such articles are in the custody of such officer or department, and requiring all persons who may have or claim any interest therein to make and establish such claim or interest not later than 30 days from the date of the publication of such notice or in default thereof, such articles will be sold and disposed of. Such notice shall contain a brief description of the said articles and such other information as the said officer or department may consider necessary or advisable to reasonably inform the public as to the kind and nature of the article about which the notice relates.

(b) Notwithstanding subsection (a) of this section or Article 12 of Chapter 160A of the General Statutes, when bicycles which are in the possession of any sheriff or police department, as provided for in this Article, have remained unclaimed by the person who may be entitled thereto for a period of 60 days after such seizure, confiscation or receipt thereof, the said sheriff or police department who has possession of any such bicycle may proceed to advertise and sell such bicycles as provided by this Article, or may donate such bicycles to a charitable organization exempt under section 501(c)(3) of the Internal Revenue Code. If the bicycles are to be donated, the notice shall state that as the intended disposition if they are not claimed. (1939, c. 195, s. 2; 1965, c. 807, s. 1; 1973, c. 1141, s. 4; 1997-180, s. 1.)

#### **§ 15-13. Public sale 30 days after publication of notice.**

If said articles shall remain unclaimed or satisfactory evidence of ownership thereof not be presented to the sheriff or police department, as the case may be, for a period of 30 days after the publication of the notice provided for in G.S. 15-12, then the said sheriff or police department in whose custody such articles may be is hereby authorized and empowered to sell the same at public auction for cash to the highest bidder, either at the courthouse door of the county, the county law enforcement headquarters if the sale is conducted by the sheriff, or at the police headquarters of the municipality in which the said articles of property are located, and at such sale to deliver the same to the purchaser or purchasers thereof. (1939, c. 195, s. 3; 1973, c. 1141, s. 5; 1991, c. 531, s. 2.)

#### **§ 15-14. Notice of sale.**

Before any sale of said property is made under the provisions of this Article, however, the said sheriff or police department making the same shall first advertise the sale by publishing a notice thereof in some newspaper published in the said county at least one time not less than 10 days prior to the date of sale, and by posting a notice of the sale at the courthouse door and at three other public places in the said county. Said notice shall specify the time and place of sale, and contain a sufficient description of the articles of property to be sold. It shall not be required that the sale lay open for increase bids or objections, but it may be deemed closed when the purchaser at the sale pays the amount of the accepted bid. (1939, c. 195, s. 4; 1973, c. 1141, s. 6.)

#### **§ 15-14.1. Sale of property through electronic auction.**

In addition to selling property as authorized in G.S. 15-13, a sheriff or police department may sell property in his or its possession through an electronic auction service. The sheriff or police

department shall comply with the publication and notice requirements provided in G.S. 15-12 through G.S. 15-14 prior to any sale under this section. (2003-284, s. 18.6(c).)

**§ 15-15. Disbursement of proceeds of sale.**

From the proceeds realized from the sale of said property, the sheriff, police department or other officer making the same shall first pay the costs and expenses of the sale, and all other necessary expenses incident to a compliance with this Article, and any balance then remaining from the proceeds of said sale shall be paid within 30 days after the sale to the treasurer of the county board of education of the county in which such sale is made, for the benefit of the fund for maintaining the free public schools of such county. (1939, c. 195, s. 5; 1973, c. 1141, s. 7.)

**§ 15-16. Nonliability of officers.**

No sheriff, police department, or other officer shall be liable for any damages or claims on account of any such sale or disposition of such property, as provided in this Article. (1939, c. 195, s. 6; 1973, c. 1141, s. 8.)

**§ 15-17. Construction of Article.**

This Article shall not be construed to apply to the seizure and disposition of whiskey distilleries, game birds, and other property or articles which have been or may be seized, where the existing law now provides the method, manner, and extent of the disposition of such articles or of the proceeds derived from the sale thereof. (1939, c. 195, s. 7.)

Article 3.

Warrants.

**§§ 15-18 through 15-24. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-24.1. Amendment of warrant to show ownership of property.**

Any criminal warrant may be amended in the superior court, before or during the trial, when there shall appear to be any variance between the allegations in the warrant and the evidence in setting forth the ownership of property if, in the opinion of the court, such amendment will not prejudice the defendant. This section shall be construed as enlarging and not limiting the conditions and situations under which a warrant may be amended. (1965, c. 285.)

Article 4.

Search Warrants.

**§ 15-25. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§§ 15-25.1 through 15-25.2. Repealed by Session Laws 1969, c. 869, s. 8.**

**§§ 15-26 through 15-27.1. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 4A.



## Administrative Search and Inspection Warrants.

### **§ 15-27.2. Warrants to conduct inspections authorized by law.**

(a) Notwithstanding the provisions of Article 11 of Chapter 15A, any official or employee of the State or of a unit of county or local government of North Carolina may, under the conditions specified in this section, obtain a warrant authorizing him to conduct a search or inspection of property if such a search or inspection is one that is elsewhere authorized by law, either with or without the consent of the person whose privacy would be thereby invaded, and is one for which such a warrant is constitutionally required.

(b) The warrant may be issued by any magistrate of the general court of justice, judge, clerk, or assistant or deputy clerk of any court of record whose territorial jurisdiction encompasses the property to be inspected.

(c) The issuing officer shall issue the warrant when he is satisfied the following conditions are met:

- (1) The one seeking the warrant must establish under oath or affirmation that the property to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection which naturally includes that property, or that there is probable cause for believing that there is a condition, object, activity or circumstance which legally justifies such a search or inspection of that property;
  - (2) An affidavit indicating the basis for the establishment of one of the grounds described in (1) above must be signed under oath or affirmation by the affiant;
  - (3) The issuing official must examine the affiant under oath or affirmation to verify the accuracy of the matters indicated by the statement in the affidavit;
- (d) The warrant shall be validly issued only if it meets the following requirements:
- (1) Except as provided in subsection (e), it must be signed by the issuing official and must bear the date and hour of its issuance above his signature with a notation that the warrant is valid for only 24 hours following its issuance;
  - (2) It must describe, either directly or by reference to the affidavit, the property where the search or inspection is to occur and be accurate enough in description so that the executor of the warrant and the owner or the possessor of the property can reasonably determine from it what person or property the warrant authorizes an inspection of;
  - (3) It must indicate the conditions, objects, activities or circumstances which the inspection is intended to check or reveal;
  - (4) It must be attached to the affidavit required to be made in order to obtain the warrant.

(e) Any warrant issued under this section for a search or inspection shall be valid for only 24 hours after its issuance, must be personally served upon the owner or possessor of the property between the hours of 8:00 A.M. and 8:00 P.M. and must be returned within 48 hours. If the warrant, however, was procured pursuant to an investigation authorized by G.S. 58-79-1, the warrant may be executed at any hour, is valid for 48 hours after its issuance, and must be returned without unnecessary delay after its execution or after the expiration of the 48 hour period if it is not executed. If the owner or possessor of the property is not present on the property at the time of the search or inspection and reasonable efforts to locate the owner or possessor have been made and have failed, the warrant or a copy thereof may be affixed to the property and shall have the same effect as if served personally upon the owner or possessor.

(f) No facts discovered or evidence obtained in a search or inspection conducted under authority of a warrant issued under this section shall be competent as evidence in any civil, criminal or administrative action, nor considered in imposing any civil, criminal, or administrative sanction against any person, nor as a basis for further seeking to obtain any warrant, if the warrant is invalid or if what is discovered or obtained is not a condition, object, activity or circumstance which it was the legal purpose of the search or inspection to discover; but this shall not prevent any such facts or evidence to be so used when the warrant issued is not constitutionally required in those circumstances.

(g) The warrants authorized under this section shall not be regarded as search warrants for the purposes of application of Article 11 of Chapter 15A of the General Statutes of North Carolina. (1967, c. 1260; 1979, c. 729; 1983, c. 294, ss. 1, 2; c. 739, ss. 1, 2.)

#### Article 5.

##### Peace Warrants.

**§§ 15-28 through 15-38. Repealed by Session Laws 1973, c. 1286, ss. 11, 26.**

#### Article 6.

##### Arrest.

**§§ 15-39 through 15-42. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-43. House broken open to prevent felony.**

All persons are authorized to break open and enter a house to prevent a felony about to be committed therein. (1868-9, c. 178, subch. 1, s. 4; Code, s. 1127; Rev., s. 3179; C.S., s. 4545.)

**§§ 15-44 through 15-47. Repealed by Session Laws 1973, c. 1286, s. 26.**

#### Article 7.

##### Fugitives from Justice.

**§ 15-48. Repealed by Session Laws 1997-80, s. 10.**

**§ 15-49. Repealed by Session Laws 1975, c. 166, s. 26.**

**§§ 15-50 through 15-52. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-53. Governor may employ agents, and offer rewards.**

The Governor, on information made to the Governor of any person, whether the name of such person be known or unknown, having committed a felony or other infamous crime within the State, and of having fled out of the jurisdiction thereof, or who conceals himself or herself within the State to avoid arrest, or who, having been convicted, has escaped and cannot otherwise be apprehended, may either employ a special agent, with a sufficient escort, to pursue and apprehend such fugitive, or issue a proclamation, and therein offer a reward, not exceeding one hundred

thousand dollars (\$100,000), according to the nature of the case, as in the Governor's opinion may be sufficient for the purpose, to be paid to anyone who shall apprehend and deliver the fugitive to such person and at such place as in the proclamation shall be directed. (1800, c. 561, P.R.; R.C., c. 35, s. 4; 1866, c. 28; 1868-9, c. 52; 1870-1, c. 15; 1871-2, c. 29; Code, s. 1169; 1891, c. 421; Rev., s. 3188; C.S., s. 4554; 1925, c. 275, s. 6; 1967, c. 165, s. 1; 2013-276, s. 1.)

**§ 15-53.1. Governor may offer rewards for information leading to arrest and conviction.**

When it shall appear to the Governor, upon satisfactory information furnished to the Governor, that a felony or other infamous crime has been committed within the State, whether the name or names of the person or persons suspected of committing the said crime be known or unknown, the Governor may issue a proclamation and therein offer an award [reward] not exceeding one hundred thousand dollars (\$100,000), according to the nature of the case as, in the Governor's opinion, may be sufficient for the purpose, to be paid to anyone who shall provide information leading to the arrest and conviction of such person or persons. The proclamation shall be upon such terms as the Governor may deem proper, but it shall identify the felony or felonies and the authority to whom the information is to be delivered and shall state such other terms as the Governor may require under which the reward is payable. (1967, c. 165, s. 2; 2013-276, s. 2.)

**§ 15-54. Officer entitled to reward.**

Any sheriff or other officer who shall make an arrest of any person charged with crime for whose apprehension a reward has been offered is entitled to such reward, and may sue for and recover the same in any court in this State having jurisdiction: Provided, that no reward shall be paid to any sheriff or other officer for any arrest made for a crime committed within the county of such sheriff or officer making such arrest. (1913, c. 132; 1917, c. 8; C.S., s. 4555.)

Article 8.

Extradition.

**§§ 15-55 through 15-84. Transferred to G.S. 15A-721 to 15A-750 by Session Laws 1973, c. 1286, s. 16.**

Article 9.

Preliminary Examination.

**§§ 15-85 through 15-101. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 10.

Bail.

**§§ 15-102 through 15-103. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-103.1. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 15-103.2. Repealed by Session Laws 1975, c. 166, s. 26.**

**§ 15-104. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-104.1. Repealed by Session Laws 1975, c. 166, s. 26.**

**§§ 15-105 through 15-107. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-107.1. Repealed by Session Laws 1975, c. 166, s. 26.**

**§§ 15-108 through 15-109. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 11.

Forfeiture of Bail.

**§§ 15-110 through 15-124. Repealed by Sessions Laws 1977, c. 711, s. 33.**

Article 12.

Commitment to Prison.

**§ 15-125. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-126. Commitment to county jail.**

All persons committed to prison before conviction shall be committed to the jail of the county in which the examination is had, or to that of the county in which the offense is charged to have been committed: Provided, if the jails of these counties are unsafe, or injurious to the health of prisoners, the committing magistrate may commit to the jail of any other convenient county. And every sheriff or jailer to whose jail any person shall be committed by any court or magistrate of competent jurisdiction shall receive such prisoner and give a receipt for him, and be bound for his safekeeping as prescribed by law. (1868-9, c. 178, subch. 2, s. 33; Code, s. 1164; Rev., s. 3231; C.S., s. 4598; 1973, c. 1286, s. 26; 1975, c. 166, s. 25.)

**§ 15-127. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 13.

Venue.

**§ 15-128. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-129. In offenses on waters dividing counties.**

When any offense is committed on any water, or watercourse whether at high or low water, which water or watercourse, or the sides or shores thereof, divides counties, such offense may be dealt with, inquired of, tried and determined, and punished at the discretion of the court, in either of the two counties which may be nearest to the place where the offense was committed. (R.C., c. 35, s. 24; Code, s. 1193; Rev., s. 3234; C.S., s. 4601; 1973, c. 1286, s. 26; 1975, c. 166, s. 25.)

**§ 15-130. Assault in one county, death in another.**

In all cases of felonious homicide when the assault has been made in one county within the State, and the person assaulted dies in any other county thereof, the offender shall be indicted and punished for the crime in the county wherein the assault was made. (1831, c. 22, s. 1; R.C., c. 35, s. 27; Code, s. 1196; Rev., s. 3235; C.S., s. 4602.)

**§ 15-131. Assault in this State, death in another.**

In all cases of felonious homicide, when the assault has been made within this State, and the person assaulted dies without the limits thereof, the offender shall be indicted and punished for the crime in the county where the assault was made, in the same manner, to all intents and purposes, as if the person assaulted had died within the limits of this State. (1831, c. 22, s. 2; R.C., c. 35, s. 28; Code, s. 1197; Rev., s. 3236; C.S., s. 4603.)

**§ 15-132. Person in this State injuring one in another.**

If any person, being in this State, unlawfully and willfully puts in motion a force from the effect of which any person is injured while in another state, the person so setting such force in motion shall be guilty of the same offense in this State as he would be if the effect had taken place within this State. (1895, c. 169; Rev., s. 3237; C.S., s. 4604.)

**§ 15-133. In county where death occurs.**

If a mortal wound is given or other violence or injury inflicted or poison is administered on the high seas or land, either within or without the limits of this State, by means whereof death ensues in any county thereof, the offense may be prosecuted and punished in the county where the death happens. (1891, c. 68; Rev., s. 3238; C.S., s. 4605.)

**§§ 15-134 through 15-136. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 14.

Presentment.

**§§ 15-137 through 15-139. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 15.

Indictment.

**§§ 15-140 through 15-143. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-144. Essentials of bill for homicide.**

In indictments for murder and manslaughter, it is not necessary to allege matter not required to be proved on the trial; but in the body of the indictment, after naming the person accused, and the county of his residence, the date of the offense, the averment "with force and arms," and the county of the alleged commission of the offense, as is now usual, it is sufficient in describing murder to allege that the accused person feloniously, willfully, and of his malice aforethought, did kill and murder (naming the person killed), and concluding as is now required by law; and it is

sufficient in describing manslaughter to allege that the accused feloniously and willfully did kill and slay (naming the person killed), and concluding as aforesaid; and any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for murder or manslaughter, as the case may be. (1887, c. 58; Rev., s. 3245; C.S., s. 4614.)

**§ 15-144.1. Essentials of bill for rape.**

(a) In indictments for rape it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the offense of rape was allegedly committed, and the averment "with force and arms," as is now usual, it is sufficient in describing rape to allege that the accused person unlawfully, willfully, and feloniously did ravish and carnally know the victim, naming her, by force and against her will and concluding as is now required by law. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for rape in the first degree and will support a verdict of guilty of rape in the first degree, rape in the second degree, attempted rape or assault on a female.

(b) If the victim is a female child under the age of 13 years it is sufficient to allege that the accused unlawfully, willfully, and feloniously did carnally know and abuse a child under 13, naming her, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for the rape of a female child under the age of 13 years and all lesser included offenses.

(c) If the victim is a person who is mentally disabled, mentally incapacitated, or physically helpless it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did carnally know and abuse a person who was mentally disabled, mentally incapacitated or physically helpless, naming such victim, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law for the rape of a mentally disabled, mentally incapacitated or physically helpless person and all lesser included offenses. (1977, c. 861, s. 1; 1979, c. 682, s. 10; 1983, c. 720, s. 1; 2002-159, s. 2(d).)

**§ 15-144.2. Essentials of bill for sex offense.**

(a) In indictments for sex offense it is not necessary to allege every matter required to be proved on the trial; but in the body of the indictment, after naming the person accused, the date of the offense, the county in which the sex offense was allegedly committed, and the averment "with force and arms," as is now usual, it is sufficient in describing a sex offense to allege that the accused person unlawfully, willfully, and feloniously did engage in a sex offense with the victim, naming the victim, by force and against the will of such victim and concluding as is now required by law. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for a first degree sex offense and will support a verdict of guilty of a sex offense in the first degree, a sex offense in the second degree, an attempt to commit a sex offense or an assault.

(b) If the victim is a person under the age of 13 years, it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a child under the age of 13 years, naming the child, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law as an indictment for a sex offense against a child under the age of 13 years and all lesser included offenses.

(c) If the victim is a person who is mentally disabled, mentally incapacitated, or physically helpless it is sufficient to allege that the defendant unlawfully, willfully, and feloniously did engage in a sex offense with a person who was mentally disabled, mentally incapacitated or physically helpless, naming such victim, and concluding as aforesaid. Any bill of indictment containing the averments and allegations herein named shall be good and sufficient in law for a sex offense against a mentally disabled, mentally incapacitated or physically helpless person and all lesser included offenses. (1979, c. 682, s. 11; 1983, c. 720, ss. 2, 3; 2002-159, s. 2(e).)

**§ 15-145. Form of bill for perjury.**

In every indictment for willful and corrupt perjury it is sufficient to set forth the substance of the offense charged upon the defendant, and by what court, or before whom, the oath was taken (averring such court or person to have competent authority to administer the same), together with the proper averments to falsify the matter wherein the perjury is assigned, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceedings, either in law or equity, other than aforesaid, and without setting forth the commission or authority of the court or person before whom the perjury was committed. In indictments for perjury the following form shall be sufficient, to wit:

The jurors for the State, on their oath, present, that A.B., of \_\_\_\_\_ County, did unlawfully commit perjury upon the trial of an action in \_\_\_\_\_ court, in \_\_\_\_\_ County, wherein \_\_\_\_\_ was plaintiff and \_\_\_\_\_ was defendant, by falsely asserting, on oath (or solemn affirmation) (here set out the statement or statements alleged to be false), knowing the said statement, or statements, to be false, or being ignorant whether or not said statement was true. (1842, c. 49, s. 1; R.C., c. 35, s. 16; Code, s. 1185; 1889, c. 83; Rev., ss. 3246, 3247; C.S., s. 4615.)

**§ 15-146. Bill for subornation of perjury.**

In every indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit willful and corrupt perjury, it is sufficient to set forth the substance of the offense charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration or any part of any record or proceedings, and without setting forth the commission or authority of the court or person before whom the perjury was committed or was agreed or promised to be committed. (1842, c. 49, s. 2; R.C., c. 35, s. 17; Code, s. 1186; Rev., s. 3248; C.S., s. 4616.)

**§ 15-147. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-148. Manner of alleging joint ownership of property.**

In any indictment wherein it is necessary to state the ownership of any property whatsoever, whether real or personal, which belongs to, or is in the possession of, more than one person, whether such persons be partners in trade, joint tenants or tenants in common, it is sufficient to name one of such persons, and to state such property to belong to the person so named, and another or others as the case may be; and whenever, in any such indictment, it is necessary to mention, for any purpose whatsoever, any partners, joint tenants or tenants in common, it is sufficient to describe them in the manner aforesaid; and this provision shall extend to all joint-stock companies and trustees. (R.C., c. 35, s. 19; Code, s. 1188; Rev., s. 3250; C.S., s. 4618.)

**§ 15-149. Description in bill for larceny of money.**

In every indictment in which it is necessary to make any averment as to the larceny of any money, or United States treasury note, or any note of any bank whatsoever, it is sufficient to describe such money, or treasury note, or bank note, simply as money, without specifying any particular coin, or treasury note, or bank note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin, or treasury note, or bank note, although the particular species of coin, of which such amount was composed, or the particular nature of the treasury note, or bank note, shall not be proven. (1876-7, c. 68; Code, s. 1190; Rev., s. 3251; C.S., s. 4619.)

**§ 15-150. Description in bill for embezzlement.**

In indictments for embezzlement, except when the offense relates to a chattel, it is sufficient to allege the embezzlement to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained if the offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved. (1871-2, c. 145, s. 2; Code, s. 1020; Rev., s. 3252; C.S., s. 4620.)

**§ 15-151. Intent to defraud; larceny and receiving.**

In any case where an intent to defraud is required to constitute the offense of forgery, or any other offense whatever, it is sufficient to allege in the indictment an intent to defraud, without naming therein the particular person or body corporate intended to be defrauded; and on the trial of such indictment, it shall be sufficient, and shall not be deemed a variance, if there appear to be an intent to defraud the United States, or any state, county, city, town, or parish, or body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person. The defendant may be charged in the same indictment in several counts with the separate offenses of receiving stolen goods, knowing them to be stolen, and larceny. (1852, c. 87, s. 2; R.C., c. 35, ss. 21, 23; 1874-5, c. 62; Code, s. 1191; Rev., s. 3253; C.S., s. 4621.)

**§ 15-152. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-153. Bill or warrant not quashed for informality.**

Every criminal proceeding by warrant, indictment, information, or impeachment is sufficient in form for all intents and purposes if it express the charge against the defendant in a plain, intelligible, and explicit manner; and the same shall not be quashed, nor the judgment thereon stayed, by reason of any informality or refinement, if in the bill or proceeding, sufficient matter appears to enable the court to proceed to judgment. (37 Hen. VIII, c. 8; 1784, c. 210, s. 2, P.R.; 1811, c. 809, P.R.; R.C., c. 35, s. 14; Code, s. 1183; Rev., s. 3254; C.S., s. 4623.)

**§ 15-154. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-155. Defects which do not vitiate.**

No judgment upon any indictment for felony or misdemeanor, whether after verdict, or by confession, or otherwise, shall be stayed or reversed for the want of the averment of any matter unnecessary to be proved, nor for omission of the words "as appears by the record," or of the words "with force and arms," nor for the insertion of the words "against the form of the statutes" instead of the words "against the form of the statute," or vice versa; nor for omission of the words "against



the form of the statute" or "against the form of the statutes," nor for omitting to state the time at which the offense was committed in any case where time is not of the essence of the offense, nor for stating the time imperfectly, nor for stating the offense to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened; nor for want of a proper and perfect venue, when the court shall appear by the indictment to have had jurisdiction of the offense. (7 Hen. VIII, c. 8; R.C., c. 35, s. 20; Code, s. 1189; Rev., s. 3255; C.S., s. 4625.)

## Article 15A.

### Investigation of Offenses Involving Abandonment and Nonsupport of Children.

#### **§ 15-155.1. Reports to district attorneys of Work First Family Assistance and out-of-wedlock births.**

The Department of Health and Human Services by and through the Secretary of Health and Human Services shall promptly after June 19, 1959, make a report to each district attorney, setting out the names and addresses of all mothers who reside in his prosecutorial district as defined in G.S. 7A-60 and are recipients of assistance under the provisions of Part 2, Article 2, Chapter 108A of the General Statutes. Such report shall in some manner show the identity of the unwed mothers and shall set forth the number of children born to each said mother. Such a report shall also be made monthly thereafter setting out the names and addresses of all such mothers who reside in the district and who may have become recipients of assistance under the provisions of Part 2, Article 2, Chapter 108A of the General Statutes since the date of the last report. (1959, c. 1210, s. 1; 1973, c. 47, s. 2; c. 476, s. 138; 1987 (Reg. Sess., 1988), c. 1037, s. 50; 1997-443, ss. 11A.118(a), 12.23.)

#### **§ 15-155.2. District attorney to take action on report of Work First Family Assistance and children born out of wedlock.**

(a) Upon receipt of such reports as are provided for in G.S. 15-155.1, the district attorney of superior court may make an investigation to determine whether the mother of an out-of-wedlock child or who is a recipient of Work First Family Assistance, has abandoned, is willfully neglecting or is refusing to support and maintain the child within the meaning of G.S. 14-326 or 49-2 or is diverting any part of the funds received as Work First Family Assistance to any purpose other than for the support and maintenance of a child in violation of G.S. 108-76.1. In making this investigation the district attorney is authorized to call upon:

- (1) Any county board of social services or the Department of Health and Human Services for personal, clerical or investigative assistance and for access to any records kept by either such board and relating to the matter under investigation and such boards are hereby directed to assist in all investigations hereunder and to furnish all records relating thereto when so requested by the district attorney;
- (2) The board of county commissioners of any county within his district for legal or clerical assistance in making any investigation or investigations in such county and such boards are hereby authorized to furnish such assistance in their discretion; and
- (3) The district attorney of any inferior court in his district for personal assistance in making any investigation or investigations in the county in which the court is located and any district attorney so called upon is hereby authorized to furnish such assistance by and with the consent of the board of county commissioners

of the county in which the court is located, which board shall provide and fix his compensation for assistance furnished.

(b) If following the investigation the district attorney has reasonable grounds to believe that a violation of G.S. 49-2, 14-326, 108-76.1 or any other criminal offense is being or has been committed, he shall send to the grand jury of the county in which he believes the offense is being or has been committed a bill of indictment charging the commission of the offense. Sole and exclusive jurisdiction of offenses discovered as a result of investigations under this section shall be vested in the superior court notwithstanding any other provisions of law, whether general, special or local. Provided nothing in this Article shall be construed to take from the inferior courts any authority or responsibility now vested in them by existing law or to compel the district attorney to again prosecute a crime that has been disposed of in the inferior courts.

(c) Repealed by Session Laws 1985, c. 589, s. 8. (1959, c. 1210, s. 1; 1969, c. 982; 1973, c. 47, s. 2; c. 476, s. 138; 1985, c. 589, s. 8; 1997-443, ss. 11A.118(a), 12.24; 2013-198, s. 4.)

**§ 15-155.3. Disclosure of information by district attorney or agent.**

No such district attorney, assistant district attorney, or any attorney-at-law especially appointed to assist the district attorney, or any agent or employee of the district attorney's office shall disclose any information, record, report, case history or any memorandum or document or any information contained therein, which may relate to or be connected with the mother or father of any child born out of wedlock, or any child born out of wedlock, unless in the opinion of the district attorney it is necessary or is required in the prosecution and performance of the district attorney's duties as set forth in the provisions of this Article. (1959, c. 1210, s. 4; 1973, c. 47, s. 2; 2013-198, s. 5.)

Article 15B.

Pretrial Examination of Witnesses and Exhibits of the State.

**§§ 15-155.4 through 15-155.5. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 16.

Trial before Justice.

**§§ 15-156 through 15-158. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-159. Repealed by Session Laws 1977, c. 711, s. 33.**

**§§ 15-160 through 15-161. Repealed by Session Laws 1973, c. 1286, s. 26.**

Article 17.

Trial in Superior Court.

**§ 15-162. Repealed by Session Laws 1973, c. 1286, s. 26.**

**§ 15-162.1. Repealed by Session Laws 1971, c. 1225.**

**§§ 15-163 through 15-165. Repealed by Session Laws 1967, c. 218, s. 4.**

**§ 15-166. Exclusion of bystanders in trial for rape and sex offenses.**

In the trial of cases for rape or sex offense or attempt to commit rape or attempt to commit a sex offense, the trial judge may, during the taking of the testimony of the prosecutrix, exclude from the courtroom all persons except the officers of the court, the defendant and those engaged in the trial of the case. (1907, c. 21; C. S., s. 4636; 1973, c. 1141, s. 14; 1979, c. 682, s. 3; 1981, c. 682, s. 5.)

**§ 15-167. Extension of session of court by trial judge.**

Whenever a trial for a felony is in progress on the last Friday of any session of court and it appears to the trial judge that it is unlikely that such trial can be completed before 5:00 P.M. on such Friday, the trial judge may extend the session as long as in his opinion it shall be necessary for the purposes of the case, but he may recess court on Friday or Saturday of such week to such time on the succeeding Sunday or Monday as, in his discretion, he deems wise. The trial judge, in his discretion, may exercise the same power in the trial of any other cause under the same circumstances, except civil actions begun after Thursday of the last week. The length of time such court shall remain in session each day shall be in the discretion of the trial judge. Whenever a trial judge continues a session pursuant to this section, he shall cause an order to such effect to be entered in the minutes, which order may be entered at such time as the judge directs, either before or after he has extended the session. (1830, c. 22; R.C., c. 31, s. 16; C.C.P., s. 397; Code, s. 1229; 1893, c. 226; Rev., s. 3266; C.S., s. 4637; 1961, c. 181; 1973, c. 1141, s. 15.)

**§ 15-168. Justification as defense to libel.**

Every defendant who is charged by indictment with the publication of a libel may prove on the trial for the same the truth of the facts alleged in the indictment; and if it shall appear to the satisfaction of the jury that the facts are true, the defendant shall be acquitted of the charge. (R.C., c. 35, s. 26; Code, s. 1195; Rev., s. 3267; C.S., s. 4638.)

**§ 15-169. Conviction of assault, when included in charge.**

On the trial of any person for any felony whatsoever, when the crime charged includes an assault against the person, it is lawful for the jury to acquit of the felony and to find a verdict of guilty of assault against the person indicted, if the evidence warrants such finding; and when such verdict is found the court shall have power to imprison the person so found guilty of an assault, for any term now allowed by law in cases of conviction when the indictment was originally for the assault of a like character. (1885, c. 68; Rev., s. 3268; C.S., s. 4639; 1979, c. 682, s. 4.)

**§ 15-170. Conviction for a less degree or an attempt.**

Upon the trial of any indictment the prisoner may be convicted of the crime charged therein or of a less degree of the same crime, or of an attempt to commit the crime so charged, or of an attempt to commit a less degree of the same crime. (1891, c. 205, s. 2; Rev., s. 3269; C.S., s. 4640.)

**§ 15-171. Repealed by Session Laws 1953, c. 100.**

**§ 15-172. Verdict for murder in first or second degree.**

Nothing contained in the statute law dividing murder into degrees shall be construed to require any alteration or modification of the existing form of indictment for murder, but the jury before whom the offender is tried shall determine in their verdict whether the crime is murder in the first or second degree. (1893, c. 85, s. 3; Rev., s. 3271; C.S., s. 4642.)

**§ 15-173. Demurrer to the evidence.**

When on the trial of any criminal action in the superior or district court, the State has introduced its evidence and rested its case, the defendant may move to dismiss the action, or for judgment as in case of nonsuit. If the motion is allowed, judgment shall be entered accordingly; and such judgment shall have the force and effect of a verdict of "not guilty" as to such defendant. If the motion is refused and the defendant does not choose to introduce evidence, the case shall be submitted to the jury as in other cases, and the defendant may on appeal urge as ground for reversal, the trial court's denial of his motion without the necessity of the defendant's having taken exception to such denial.

If the defendant introduces evidence, he thereby waives any motion for dismissal or judgment as in case of nonsuit which he may have made prior to the introduction of his evidence and cannot urge such prior motion as ground for appeal. The defendant, however, may make such motion at the conclusion of all the evidence in the case, irrespective of whether or not he made a motion for dismissal or judgment as in case of nonsuit theretofore. If the motion is allowed, or shall be sustained on appeal, it shall in all cases have the force and effect of a verdict of "not guilty." If the motion is refused, the defendant may on appeal, after the jury has rendered its verdict, urge as ground for reversal the trial court's denial of his motion made at the close of all the evidence without the necessity of the defendant's having taken exception to such denial. (1913, c. 73; Ex. Sess. 1913, c. 32; C.S., s. 4643; 1951, c. 1086, s. 1; 1973, c. 1141, s. 16.)

**§§ 15-173.1 through 15-174.** Repealed by Session Laws 1977, c. 711, s. 33.

**§ 15-175.** Repealed by Session Laws 1973, c. 1286, s. 26.

**§ 15-176. Prisoner not to be tried in prison uniform.**

It shall be unlawful for any sheriff, jailer or other officer to require any person imprisoned in jail to appear in any court for trial dressed in the uniform or dress of a prisoner or convict, or in any uniform or apparel other than ordinary civilian's dress, or with shaven or clipped head. And no person charged with a criminal offense shall be tried in any court while dressed in the uniform or dress of a prisoner or convict, or in any uniform or apparel other than ordinary civilian's dress, or with head shaven or clipped by or under the direction and requirement of any sheriff, jailer or other officer, unless the head was shaven or clipped while such person was serving a term of imprisonment for the commission of a crime.

Any sheriff, jailer or other officer who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. (1915, c. 124; C.S., s. 4646; 1993, c. 539, s. 296; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 15-176.1. District attorney may argue for death penalty.**

In the trial of capital cases, the district attorney or other counsel appearing for the State may argue to the jury that a sentence of death should be imposed and that the jury should not recommend life imprisonment. (1961, c. 890; 1973, c. 47, s. 2.)

**§ 15-176.2. Repealed by Session Laws 1973, c. 44, s. 1.**

Article 17A.

Informing Jury in Case Involving Death Penalty.

**§ 15-176.3. Informing and questioning potential jurors on consequences of guilty verdict.**

When a jury is being selected for a case in which the defendant is indicted for a crime for which the penalty is a sentence of death, the court, the defense, or the State may inform any person called to serve as a potential juror that the death penalty will be imposed upon the return of a verdict of guilty of that crime and may inquire of any person called to serve as a potential juror whether that person understands the consequences of a verdict of guilty of that crime. (1973, c. 1286, s. 12.)

**§ 15-176.4. Instruction to jury on consequences of guilty verdict.**

When a defendant is indicted for a crime for which the penalty is a sentence of death, the court, upon request by either party, shall instruct the jury that the death penalty will be imposed upon the return of a verdict of guilty of that crime. (1973, c. 1286, s. 12.)

**§ 15-176.5. Argument to jury on consequences of guilty verdict.**

When a case will be submitted to a jury on a charge for which the penalty is a sentence of death, either party in its argument to the jury may indicate the consequences of a verdict of guilty of that charge. (1973, c. 1286, s. 12.)

**§§ 15-176.6 through 15-176.8. Reserved for future codification purposes.**

Article 17B.

Informing Jury of Possible Punishment upon Conviction.

**§ 15-176.9. Loss of motor vehicle driver's license.**

When a case will be submitted to a jury on a charge for which the penalty involves the possibility of the loss of a motor vehicle driver's license, either party in its argument to the jury may indicate the consequences of a verdict of guilty of that charge. (1973, c. 1286, s. 25.)

Article 18.

Appeal.

**§§ 15-177 through 15-178. Repealed by Session Laws 1973, c. 1141, s. 17.**

**§§ 15-179 through 15-186. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 15-186.1: Repealed by Session Laws 1973, c. 44, s. 1.**

Article 19.

## Execution.

### **§ 15-187. Death by administration of lethal drugs.**

Death by electrocution under sentence of law and death by the administration of lethal gas under sentence of law are abolished. Any person convicted of a criminal offense and sentenced to death shall be executed in accordance with G.S. 15-188 and the remainder of this Article. The warden of Central Prison may obtain and employ the drugs necessary to carry out the provisions of this Article, regardless of contrary provisions in Chapter 90 of the General Statutes. (1909, ch. 443, s. 1; C.S., s. 4657; 1935, c. 294, s. 1; 1983, c. 678, ss. 1, 4; 1998-212, s. 17.22(a); 2015-198, s. 5.)

### **§ 15-188. Manner and place of execution.**

In accordance with G.S. 15-187, the mode of executing a death sentence must in every case be by administering to the convict or felon an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the person is dead, and that procedure shall be determined by the Secretary of the Department of Public Safety, who shall ensure compliance with the federal and State constitutions; and when any person, convict or felon shall be sentenced by any court of the State having competent jurisdiction to be so executed, the punishment shall only be inflicted within a permanent death chamber which the superintendent of the State penitentiary is hereby authorized and directed to provide within the walls of the North Carolina penitentiary at Raleigh, North Carolina. The superintendent of the State penitentiary shall also cause to be provided, in conformity with this Article, the necessary appliances for the infliction of the punishment of death and qualified personnel to set up and prepare the injection, administer the preinjections, insert the IV catheter, and to perform other tasks required for this procedure in accordance with the requirements of this Article. (1909, c. 443, s. 2; C.S., s. 4658; 1935, c. 294, s. 2; 1983, c. 678, s. 2; 1998-212, s. 17.22(b); 2012-136, s. 1; 2013-154, s. 3(a).)

#### **§ 15-188.1. Health care professional assistance.**

(a) Any assistance rendered with an execution under this Article by any licensed health care professional, including, but not limited to, physicians, nurses, and pharmacists, shall not be cause for any disciplinary or corrective measures by any board, commission, or other authority created by the State or governed by State law which oversees or regulates the practice of health care professionals, including, but not limited to, the North Carolina Medical Board, the North Carolina Board of Nursing, and the North Carolina Board of Pharmacy.

(b) The infliction of the punishment of death by administration of the required lethal substances under this Article shall not be construed to be the practice of medicine. (2013-154, s. 1(a).)

### **§ 15-189. Sentence of death; prisoner taken to penitentiary.**

Upon the sentence of death being pronounced against any person in the State of North Carolina convicted of a crime punishable by death, it shall be the duty of the judge pronouncing such death sentence to make the same in writing, which shall be filed in the papers in the case against such convicted person. The clerk of the superior court in which such death sentence is pronounced shall prepare a certified copy of said judgment or sentence of death, including therewith a copy of any notice or entries of appeal made in such case; if no entries or notice of appeal have been made or given in such case, a statement to the effect shall be included in the certificate of the clerk; it shall also be the duty of the district attorney, assistant district attorney, or attorney prosecuting in behalf

of the State in the absence of the district attorney, to prepare and sign a certificate stating in substance that he prosecuted said case in behalf of the State and that notice or entries of appeal have or have not been made or given in said case, and further that he has examined a copy of said judgment or sentence of death certified by the clerk, including the copy of the notice or entries of appeal or statement to the effect that no appeal has been given, and to the best of his knowledge the same is correct; the certificate of said district attorney, or other prosecuting officer above named, shall be attached to the certified copy of said sentence of death, as prepared and certified by the clerk, and both certificates shall be transmitted by the clerk of the superior court in which said sentence of death is pronounced to the warden of the State penitentiary at Raleigh, North Carolina; at the same time and in the same manner, a duplicate original of said certificates shall be prepared by the clerk of the superior court and the district attorney, or other prosecuting officer above named, and the said duplicate original or said certificates shall be transmitted to the Attorney General of North Carolina. If notice of appeal is given or entries of appeal are made after the expiration of the term of superior court in which said sentence of death is pronounced, said certificates shall be prepared by the clerk of the superior court in which said sentence is pronounced and by the district attorney, or other prosecuting officer above named, prosecuting in behalf of the State, in the same manner and shall be transmitted as soon as possible to the warden of the State penitentiary at Raleigh, North Carolina, and to the Attorney General of North Carolina. The above certificates so prepared by the clerk of the superior court in which such sentence of death is pronounced and by the district attorney, or other prosecuting officer above named, shall be transmitted by the clerk of the superior court in which such sentence is pronounced to the warden of the State penitentiary at Raleigh, North Carolina, and to the Attorney General of North Carolina, not more than 20 or less than 10 days before the time fixed in the judgment of the court for the execution of the sentence; and in all cases where there is no appeal, said sentence of death shall not be carried out by the warden of the State penitentiary or by any of his deputies or agents until said certificates so prepared and transmitted by the clerk of the superior court in which said sentence of death is pronounced, and by the district attorney, or the prosecuting officer above named, have been received in the office of the warden of the State penitentiary at Raleigh, North Carolina. In all cases where there is no appeal from the sentence of death and in all cases where the sentence is pronounced against a prisoner convicted of the crime of rape it shall be the duty of the sheriff, together with at least one deputy, to convey to the penitentiary, at Raleigh, North Carolina, such condemned felon or convict forthwith upon the adjournment of the court in which the felon was tried, and deliver the convict or felon to the warden of the penitentiary. (1909, c. 443, s. 3; C.S., s. 4659; 1951, c. 899, s. 1; 1973, c. 47, s. 2.)

**§ 15-190. Person or persons to be designated by warden to execute sentence; supervision of execution; who shall be present.**

(a) Correction custody personnel or some other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been so pronounced to be executed as provided by this Article and all amendments thereto. The execution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the correctional custody personnel or other reliable person or persons who shall cause the person, convict or felon against whom the death sentence has been pronounced to be executed as provided by this Article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in the warden's place, and a licensed

physician, or a medical professional other than a physician, to monitor the injection of the required lethal substances and certify the fact of the execution. If a licensed physician is not present at the execution, then a licensed physician shall be present on the premises and available to examine the body after the execution and pronounce the person dead. Four respectable citizens, two members of the victim's family, the counsel and any relatives of such person, convict or felon and a minister or member of the clergy or religious leader of the person's choosing may be present if they so desire. The identities, including the names, residential addresses, residential telephone numbers, and social security numbers, of witnesses or persons designated to carry out the execution shall be confidential and exempted from Chapter 132 of the General Statutes and are not subject to discovery or introduction as evidence in any proceeding. The Senior Resident Superior Court Judge for Wake County may order disclosure of names made confidential by this section after making findings that support a conclusion that disclosure is necessary to a proper administration of justice.

For purposes of this section, a "medical professional other than a physician" means a physician assistant, nurse practitioner, registered nurse, emergency medical technician, or emergency medical technician-paramedic who is licensed or credentialed by the licensing board, agency, or organization responsible for licensing or credentialing that profession.

(b) The warden shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter on October 1 of each year, on the status of the persons required by subsection (a) of this section to be named and designated by the warden to execute death sentences under this Article. The report shall confirm that the required persons are properly trained and ready to serve as an execution team. Alternatively, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety may direct that the reports required under this subsection be made on other dates consistent with the Committee's schedule. (1909, c. 443, s. 4; C.S., s. 4660; 1925, c. 123; 1935, c. 294, s. 3; 1983, c. 678, s. 3; 1997-70, s. 1; 2004-124, s. 17.6A; 2004-199, s. 52; 2004-203, s. 22; 2013-154, s. 4; 2015-198, s. 1; 2016-77, s. 8(a).)

#### **§ 15-191. Pending sentences unaffected.**

Nothing in G.S. 15-187, 15-188, and 15-190 shall be construed to alter in any manner the execution of the sentence of death imposed on account of any crime or crimes committed before July 1, 1935. (1935, c. 294, s. 4.)

#### **§ 15-192. Certificate filed with clerk.**

The warden, together with the licensed physician who was present on the premises to pronounce death as required by G.S. 15-190, shall certify the fact of the execution of the condemned person, convict or felon to the clerk of the superior court in which such sentence was pronounced, and the clerk shall file such certificate with the papers of the case and enter the same upon the records thereof. (1909, c. 443, s. 5; C.S., s. 4661; 2015-198, s. 2.)

#### **§ 15-193. Notice of reprieve or new trial.**

Should the condemned person, convict or felon be granted a reprieve by the Governor or obtain a writ of error, or a new trial be granted by the Supreme Court of the State of North Carolina, or should the execution of the sentence be stayed by any competent judicial tribunal or proceeding, notice of such reprieve, new trial, appeal, writ of error or stay of execution shall be served upon the warden or deputy warden of the penitentiary by the sheriff of Wake County, in case such condemned person is confined in the penitentiary, or upon any sheriff having the custody of any



such condemned person, also upon the condemned person himself. (1909, c. 443, s. 6; C.S., s. 4662.)

**§ 15-194. Time for execution.**

(a) In sentencing a capital defendant to a death sentence pursuant to G.S. 15A-2000(b), the sentencing judge need not specify the date and time the execution is to be carried out by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Attorney General of North Carolina shall provide written notification to the Secretary of the Department of Public Safety of the occurrence of any of the following not more than 90 days from that occurrence:

- (1) The United States Supreme Court has filed an opinion upholding the sentence of death following completion of the initial State and federal postconviction proceedings, if any;
- (2) The mandate issued by the Supreme Court of North Carolina on direct appeal pursuant to N.C.R. App. P. 32(b) affirming the capital defendant's death sentence and the time for filing a petition for writ of certiorari to the United States Supreme Court has expired without a petition being filed;
- (3) The capital defendant, if indigent, failed to timely seek the appointment of counsel pursuant to G.S. 7A-451(c), or failed to file a timely motion for appropriate relief as required by G.S. 15A-1415(a);
- (4) The superior court denied the capital defendant's motion for appropriate relief, but the capital defendant failed to file a timely petition for writ of certiorari to the Supreme Court of North Carolina pursuant to N.C.R. App. P. 21(f);
- (5) The Supreme Court of North Carolina denied the capital defendant's petition for writ of certiorari pursuant to N.C.R. App. P. 21(f), or, if certiorari was granted, upheld the capital defendant's death sentence, but the capital defendant failed to file a timely petition for writ of certiorari to the United States Supreme Court; or
- (6) Following State postconviction proceedings, if any, the capital defendant failed to file a timely petition for writ of habeas corpus in the appropriate federal district court, or failed to timely appeal or petition an adverse habeas corpus decision to the United States Court of Appeals for the Fourth Circuit or the United States Supreme Court.

The Secretary of the Department of Public Safety shall immediately schedule a date for the execution of the original death sentence not less than 15 days or more than 120 days from the date of receiving written notification from the Attorney General under this section.

The Secretary shall send a certified copy of the document fixing the date to the clerk of superior court of the county in which the case was tried or, if venue was changed, in which the defendant was indicted. The certified copy shall be recorded in the minutes of the court. The Secretary shall also send certified copies to the capital defendant, the capital defendant's attorney, the district attorney who prosecuted the case, and the Attorney General of North Carolina.

(b) The Attorney General shall submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter on October 1 of each year, on the status of all pending postconviction capital cases. Alternatively, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety may direct that the reports required under this subsection be made on other dates consistent with the Committee's schedule. (1909, c.

443, s. 6; C.S., s. 4663; 1925, c. 55; 1951, c. 244, ss. 1, 2; 1973, c. 47, s. 2; 1981, c. 900; 1995 (Reg. Sess., 1996), c. 719, s. 5; 1997-289, s. 1; 1999-358, s. 2; 2011-145, s. 19.1(h), (i); 2013-154, s. 2; 2017-186, s. 2(mm).)

**§ 15-195. Prisoner taken to place of trial when new trial granted.**

Should a new trial be granted the condemned person, convict or felon against whom sentence of death has been pronounced, after he has been conveyed to the penitentiary, he shall be conveyed back to the place of trial by such correctional custody personnel as the warden of the penitentiary shall direct, their expenses to be paid as is now provided by law for the conveyance of convicts to the penitentiary. (1909, c. 443, s. 7; C.S., s. 4664; 2016-77, s. 8(b).)

**§ 15-196: Repealed by Session Laws 1989, c. 353, s. 3.**

Article 19A.

Credits against the Service of Sentences and for Attainment of Prison Privileges.

**§ 15-196.1. Credits allowed.**

The minimum and maximum term of a sentence shall be credited with and diminished by the total amount of time a defendant has spent, committed to or in confinement in any State or local correctional, mental or other institution as a result of the charge that culminated in the sentence or the incident from which the charge arose. The credit provided shall be calculated from the date custody under the charge commenced and shall include credit for all time spent in custody pending trial, trial de novo, appeal, retrial, or pending parole, probation, or post-release supervision revocation hearing: Provided, however, the credit available herein shall not include any time that a defendant has spent in custody as a result of a pending charge while serving a sentence imposed for another offense. (1973, c. 44, s. 1; 1977, c. 711, s. 16A; 1977, 2nd Sess., c. 1147, s. 30; 1997-237, s. 3; 2015-229, s. 1.)

**§ 15-196.2. Allowance in cases of multiple sentences.**

In the event time creditable under this section shall have been spent in custody as the result of more than one pending charge, resulting in imprisonment for more than one offense, credit shall be allowed as herein provided. Consecutive sentences shall be considered as one sentence for the purpose of providing credit, and the creditable time shall not be multiplied by the number of consecutive offenses for which a defendant is imprisoned. Each concurrent sentence shall be credited with so much of the time as was spent in custody due to the offense resulting in the sentence. When both concurrent and consecutive sentences are imposed, both of the above rules shall obtain to the applicable extent.

Upon revocation of two or more consecutive sentences as a result of a probation violation, credit for time served on concurrent confinements in response to violation under G.S. 15A-1344(d2) shall be credited to only one sentence. (1973, c. 44, s. 1; 2016-77, s. 5.)

**§ 15-196.3. Effect of credit.**

Time creditable under this section shall reduce the minimum and maximum term of a sentence; and, irrespective of sentence, shall reduce the time required to attain privileges made available to inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety which are dependent, in whole or in part, upon the passage of a specific length of

time in custody, including parole or post-release supervision consideration by the Post-Release Supervision and Parole Commission. However, nothing in this section shall be construed as requiring an automatic award of privileges by virtue of the passage of time. (1973, c. 44, s. 1; 1977, c. 711, s. 17; 1997-237, s. 4; 2011-145, s. 19.1(h); 2012-83, s. 22; 2017-186, s. 2(nn).)

**§ 15-196.4. Procedures for judicial award.**

Upon sentencing or activating a sentence, the judge presiding shall determine the credits to which the defendant is entitled and shall cause the clerk to transmit to the custodian of the defendant a statement of allowable credits. Upon committing a defendant upon the conclusion of an appeal, or a parole, probation, or post-release supervision revocation, the committing authority shall determine any credits allowable on account of these proceedings and shall cause to be transmitted, as in all other cases, a statement of the allowable credit to the custodian of the defendant. Upon reviewing a petition seeking credit not previously allowed, the court shall determine the credits due and forward an order setting forth the allowable credit to the custodian of the petitioner. (1973, c. 44, s. 1; 1997-237, s. 5.)

Article 20.

Suspension of Sentence and Probation.

**§§ 15-197 through 15-200.1. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 15-200.2. Repealed by Session Laws 1975, c. 309, s. 2.**

**§§ 15-201 through 15-202. Repealed by Session Laws 1973, c. 1262, s. 10.**

**§ 15-203. Duties of the Secretary of Public Safety; appointment of probation officers; reports; requests for extradition.**

The Secretary of Public Safety, or the Secretary's designee, shall direct the work of the probation officers appointed under this Article. Notwithstanding any other provision of law, the Secretary of Public Safety shall have sole discretion to establish the minimum experience requirements to receive an appointment as a probation officer. The Office of State Human Resources shall work with the Secretary to establish position classifications for probation officers based on the experience requirements established by the Secretary. The Secretary, or the Secretary's designee, shall consult and cooperate with the courts and institutions in the development of methods and procedure in the administration of probation, and shall arrange conferences of probation officers and judges. The Secretary shall make an annual written report with statistical and other information to the Governor. The Secretary is authorized to present to the Governor written applications for requisitions for the return of probationers who have broken the terms of their probation, and are believed to be in another state, and the Secretary shall follow the procedure outlined for requests for extradition as set forth in G.S. 15A-743. (1937, c. 132, s. 7; 1959, c. 127; 1963, c. 914, s. 2; 1973, c. 1262, s. 10; 2010-96, s. 2; 2011-145, s. 19.1(h), (i); 2012-83, s. 2; 2013-382, s. 9.1(c).)

**§ 15-203.1. Repealed by Session Laws 1963, c. 914, s. 6.**

**§ 15-204. Assignment, compensation and oath of probation officers.**

Probation officers appointed under this Article shall be assigned to serve in such courts or districts or otherwise as the Secretary of Public Safety may determine. They shall be paid annual salaries to be fixed by the Department of Public Safety, and shall also be paid traveling and other necessary expenses incurred in the performance of their official duties as probation officers when such expense accounts have been authorized and approved by the Secretary of Public Safety.

Each person appointed as a probation officer shall take an oath of office before the judge of the court or courts in which he is to serve, which oath shall be as follows:

"I, \_\_\_\_\_, do solemnly and sincerely swear that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God,"  
and shall be noted of record by the clerk of the court. (1937, c. 132, s. 8; 1973, c. 1262, s. 10; 2011-145, s. 19.1(h), (i); 2012-83, s. 23.)

#### **§ 15-205. Duties and powers of the probation officers.**

A probation officer shall investigate all cases referred to him for investigation by the judges of the courts or by the Secretary of Public Safety. Such officer shall keep informed concerning the conduct and condition of each person on probation under his supervision by visiting, requiring reports, and in other ways, and shall report thereon in writing as often as the court or the Secretary of Public Safety may require. Such officer shall use all practicable and suitable methods, not inconsistent with the conditions imposed by the court or the Secretary of Public Safety, to aid and encourage persons on probation to bring about improvement in their conduct and condition. Such officer shall keep detailed records of his work; shall make such reports in writing to the Secretary of Public Safety as he may require; and shall perform such other duties as the Secretary of Public Safety may require. A probation officer shall have, in the execution of his duties, the powers of arrest and, to the extent necessary for the performance of his duties, the same right to execute process as is now given, or that may hereafter be given by law, to the sheriffs of this State. (1937, c. 132, s. 9; 1973, c. 1262, s. 10; 1975, c. 229, s. 1; 1977, c. 711, s. 18; 2011-145, s. 19.1(h), (i); 2013-101, s. 3.)

#### **§ 15-205.1. Repealed by Session Laws 1977, c. 711, s. 33.**

#### **§ 15-206. Cooperation with Division of Adult Correction and Juvenile Justice of the Department of Public Safety and officials of local units.**

It is hereby made the duty of every city, county, or State official or department to render all assistance and cooperation within the official's or the Department's fundamental power which may further the objects of this Article. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the Secretary of Public Safety, and the probation officers are authorized to seek the cooperation of such officials and departments, and especially of the county superintendents of social services and of the Department of Health and Human Services. (1937, c. 132, s. 10; 1961, c. 139, s. 2; 1969, c. 982; 1973, c. 476, s. 138; c. 1262, s. 10; 1997-443, s. 11A.118(a); 2011-145, ss. 19.1(h), (i); 2012-83, s. 24; 2017-186, s. 2(oo).)

#### **§ 15-207. Records treated as privileged information.**

All information and data obtained in the discharge of official duty by any probation officer shall be privileged information, shall not be receivable as evidence in any court, and shall not be disclosed directly or indirectly to any other than the judge or to others entitled under this Article to receive reports, unless and until otherwise ordered by a judge of the court or the Secretary of Public Safety. (1937, c. 132, s. 11; 1973, c. 1262, s. 10; 2011-145, s. 19.1(i).)

**§ 15-208. Repealed by Session Laws 1975, c. 138.**

**§ 15-209. Accommodations for probation offices.**

(a) The county commissioners in each county in which a probation office exists shall provide, in or near the courthouse, suitable office space for those probation officers assigned to the county who have probationary caseloads and their administrative support. This requirement does not include management staff of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, nonprobation staff, or other Division of Adult Correction and Juvenile Justice of the Department of Public Safety employees.

(b) If a county is unable to provide the space required under subsection (a) of this section for any reason, it may elect to request that the Division of Adult Correction and Juvenile Justice of the Department of Public Safety lease space for the probation office and receive reimbursement from the county for the leased space. If a county fails to reimburse the Division for such leased space, the Secretary of Public Safety may request that the Administrative Office of the Courts transfer the unpaid amount to the Division from the county's court and jail facility fee remittances. (1937, c. 132, s. 13; 2009-451, s. 19.19; 2011-145, ss. 19.1(h), (i); 2017-186, s. 2(pp).)

Article 21.

Segregation of Youthful Offenders.

**§§ 15-210 through 15-216. Repealed by Session Laws 1967, c. 996, s. 17.**

Article 22.

Review of Criminal Trials.

**§ 15-217. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 15-217.1: Recodified as § 15A-1420(b1) by Session Laws 1995 (Regular Session, 1996), c. 719, s. 3.**

**§§ 15-218 through 15-222. Repealed by Session Laws 1977, c. 711, s. 33.**

Article 23.

Expunction of Records.

**§§ 15-223 through 15-224. Recodified as §§ 15A-145 and 15A-146 by Session Laws 1985, c. 636, s. 1, effective July 5, 1985.**

