

CRIMINAL JUSTICE

Legislation Passed:

*[HB 770](#) (**Freedom to Work/OLB Reform**) – Requires state agency licensing boards to follow the requirements of G.S. 93B-8.1, the same as occupational licensing boards; allows all licensing boards to deny an application based on a criminal conviction if the board finds the applicant’s criminal history is directly related to the duties and responsibilities of the licensed occupation or is violent or sexual in nature. Boards may not deny a license based on a determination that a conviction is for a “crime of moral turpitude.” Every board must include in their applications and on their web sites whether the board requires a criminal record check, factors that will be considered pursuant to G.S. 93B-8.1(b1) and the appeals process. Every board must make sure that the applicant has the criminal record that is being used by the Board and allow the applicant an opportunity to correct any inaccuracies in the record and provide evidence of mitigation or rehabilitation. Allows applicants to petition a licensing board at *any time* for a determination on whether their criminal history will disqualify the individual from obtaining a license and determinations issued by boards declaring that the petitioner is eligible for a license will be binding if an applicant fulfills all other requirements for the license and the applicant's submitted criminal history was correct and remains unchanged at the time of application for a license. Requires occupational licensing boards to grant licenses to any applicant who has met the requirements and completed a federally recognized apprenticeship and passed any required examination. See [Bill Summary HB 770](#). Provisions of [SB 305/HB 910](#) are part of final HB 770.

*[SB 584](#) (**Criminal Law Reform**) - Amends the rule-making procedure to delay the effective date of rules that create a new criminal offense to either the 31st legislative day or the day of adjournment of the next regular session, whichever occurs first, unless disapproved by the General Assembly. Amends S.L. 2018-69 to extend the reporting deadline for State agencies, boards, and commissions, and for counties, cities, towns, and metropolitan sewerage districts to file their reports to November 1, 2019. These sections would also amend the Session Law to require reports to go only to the Joint Legislative Administrative Procedure Oversight Committee, rather than both that committee and the Joint Legislative Oversight Committee on Justice and Public Safety. Amends S.L. 2018-69 to limit the reporting requirement to counties with a population of 20,000 or more according to the last federal decennial census, and cities or towns with a population of 1,000 or more according to the last federal decennial census. Requires the General Statutes Commission to study the reports received pursuant to S.L. 2018-69, as amended, and make recommendations regarding whether conduct currently criminalized by ordinance or rule should have criminal penalties provided by a generally applicable State

law. The Commission shall report to the 2019 General Assembly and to the Joint Oversight Committee on General Government on or before May 1, 2020.

[SB 413](#) **(Raise the Age Modifications)** - Modifies certain juvenile delinquency and juvenile justice statutes to facilitate implementation of the legislation known as "Raise the Age." Clarifies the limits on juvenile court jurisdiction by providing juveniles previously transferred to and convicted in superior court will be prosecuted as an adult for any subsequent criminal offense except juveniles convicted of a misdemeanor motor vehicle violation or an infraction other than driving while impaired.

*[HB 198](#) **(Human Trafficking Commission Recommendations)** - Makes clarifications to the Human Trafficking Article; criminalizes promoting travel for unlawful sexual conduct; provides a specific civil cause of action for human trafficking victims; and expands the post-conviction relief available to a victim of human trafficking, as recommended by the North Carolina Human Trafficking Commission.

[HB 108](#) **(PED/Safekeeper Health Care Cost Recov. Pract.)** - Modifies the data collection and cost recovery practices for health care services provided to incarcerated people who are transferred from a local jail to the State prison system pursuant to a safekeeping order.

[HB 106](#) **(Inmate Health Care & 340B Program)** - Requires the Department of Public Safety (DPS) to develop a plan to increase the use of the Central Prison Healthcare Complex and to submit the plan to the Joint Legislative Oversight Committee on Justice and Public Safety; requires a quarterly report on the reimbursement rate for contracted providers; adds a new statute pertaining to Medicaid services for inmates and requires progress reports; requires the issuance of two Requests for Proposals (RFP) to develop an electronic inventory system for medical supplies; requires DPS to study and develop initiatives pertaining to the salaries of all in-prison health services employees; and requires the establishment of a telemedicine pilot program to provide physical health services to inmates. Part II (Federal 340B Program) requires DPS to partner with the Department of Health and Human Services to access medication pricing under the federal 340B Program, requires DPS to issue a RFP for partnerships between entities covered under the federal 340B Program and four prison regions, requires DPS to develop a Memorandum of Agreement with the University of North Carolina Healthcare Services for the 340B Program. HB 106 is based on recommendations contained in reports by the Program Evaluation Division.

[SB 682](#) **(Implement Crime Victim Rights Amendment)** - Implements the constitutional amendment to provide protections and safeguards to victims of crime and acts of delinquency. See [Legislative Staff Bill Summary of SB 682](#)

[HB 474](#) (**Death by Distribution**) - Creates new criminal offenses for death by distribution, and aggravated death by distribution, of "certain controlled substances" without malice.

[HB 617](#) (**Allow Repeat Referral to Teen Court**) - Allows a juvenile to be referred to a teen court program more than once by removing the prohibition on referring a juvenile to a teen court program if the juvenile has been referred to a teen court program previously.

*[SB 151](#) (**Break or Enter Pharmacy/Increase Penalties**) - Makes it a criminal offense to break or enter into a pharmacy with the intent to commit a larceny of a controlled substance, to possess or receive a controlled substance stolen from a pharmacy, and would authorize the forfeiture of any interest in property that a person acquires or maintains from a violation of this section. Makes it a Class E felony (15 to 88 months incarceration) to break or enter into a pharmacy with the intent to commit a larceny of a controlled substance. Class E felony punishment may include an active term of imprisonment. Makes it a Class F felony (10 to 59 months incarceration) to receive or possess a controlled substance knowing or having reason to believe the controlled substance to be stolen from a pharmacy.

[SB 118](#) (**Prison Safety/TANF State Plan/Clarification**) Various appropriations totaling four million four hundred seventy-one thousand one hundred forty-nine dollars (\$4,471,149) in nonrecurring funds for the 2019-2020 fiscal year for the costs associated with listed prison safety expenditures: (1) Four hundred thousand dollars (\$400,000) to purchase additional stab resistant vests and exterior carriers for certified prison staff; (2) Seven hundred thirty thousand nine hundred thirty-seven dollars (\$730,937) to erect security netting over prison fence lines to deter and intercept contraband; (3) Two hundred sixteen thousand seven hundred fifty dollars (\$216,750) to purchase additional handheld metal detectors to reduce contraband in prison facilities; (4) Six hundred seventy-five thousand three hundred sixty dollars (\$675,360) to be used to purchase customizable key lock boxes distributed throughout prison facilities; (5) Two million four hundred forty-eight thousand one hundred two dollars (\$2,448,102) for Information Technology security equipment upgrades for prison mandown technology and cameras. Quarterly reporting to the Joint Legislative Oversight Committee on Justice and Public Safety starting on November 1, 2019, and lasting until the end of the 2019-2021 biennium, delivered by the Department of Public Safety regarding listed prison reform initiatives: (1) All modifications to Department rules, policies, and procedures related to disciplinary actions against correctional officers and other correctional staff; (2) All modifications to Department rules, policies, and procedures related to disciplinary actions against inmates; (3) The amount, content, quality, and frequency of staff training; (4) Modifications to inmate work assignments, including assessments of the appropriateness of particular work assignments based on inmate classification; (5) Facility infrastructure improvements made to emergency communication, location tracking capabilities, and

installation of additional cameras; (6) Increased availability of staff personal safety equipment and institutional safety equipment; (7) Adequacy of staffing of prison facilities and actions taken to increase staffing levels; (8) Actions taken to increase retention efforts of staff; (9) Changes to the hiring and orientation processes and procedures for correctional officers; (10) Methods used to prevent delivery of contraband items to prisoners, including illegal drugs and mobile phones, and an evaluation or summary of the effectiveness of the methods; (11) Modifications to housing capacity to meet prison staffing requirements. Clarifying language which explains that certain funds referenced in House Bill 966 and other salary and benefits bills enacted in 2019 are to be described as Departmental Receipts. Approval of the 2019-2022 Temporary Assistance for Needy Families (TANF) State Plan

Legislation Pending:

*[SB 562](#)/HB 874 (**The Second Chance Act**) - Provides that a misdemeanor or felony charge that is dismissed or disposed “not guilty” on or after July 1, 2020, will be automatically expunged. (Exception: a felony charge that is dismissed pursuant to a plea agreement that results in any conviction). Provides that a person or prosecutor can petition for expunction of all misdemeanor and Class H or I felony convictions that occurred when a person was ages 16 or 17 and prior to Dec. 1, 2019 (the effective date of Raise the Age). Allows a prosecutor to petition for expunction of dismissed charges and charges disposed “not guilty” and “Raise the Age” convictions (see above). Expands expunction eligibility by allowing an individual to petition for expunction of all nonviolent misdemeanor convictions after an extended “good behavior” wait period of 7 years. If a person is eligible for expunction of one or more nonviolent misdemeanors, the presiding judge must grant the relief. **Passed Senate. Pending in House.**

[HB 374](#) (**Sex Offender/Expand Residential Restriction**) Would prohibit certain people on the sex offense registry from residing within 1,000 feet of a site where an organized residential youth camp is located. **Passed the House; Pending in Senate.**

*[HB 132/SB 82](#) (**Dismissal or Not Guilty/Automatic Expunction**) Provides for the automatic expunction of all charges dismissed or disposed “not guilty”. **Pending in House/Senate.**

*[HB 121](#) (**Expunction Related to RTA/ No Conviction**) Expands expunction eligibility and reduces wait time for misdemeanor and H or I felony convictions committed at age 16 or 17; also eliminates felony disqualification for expunction of dismissed charges. **Passed House; Pending in Senate.**

*[HB 511/SB 404](#) (**NC First Step Act**) Allows a sentencing court to deviate from the minimum and maximum sentencing mandates for drug trafficking offenses. Allows a person sentenced solely for trafficking or conspiracy to commit trafficking to file a

Motion for Appropriate Relief (MAR) to have their sentence modified. Authorizes the Department of Information Technology (DIT) to study the collection of criminal justice data. **Passed the House; Pending in Senate.**

[HB 540/SB 442](#) (**Drug Trafficking/Judicial Discretion & Study**) Would increase judicial discretion in sentencing for drug trafficking offenses and require the North Carolina Sentencing and Policy Advisory Commission to study the advisability of reducing sentences for drug trafficking convictions. **Pending in House/Senate.**

*[HB 885](#) (**Study Criminal Justice Data Collection**) – Requires the Department of Information Technology, Government Analytics Center, and the Administrative Office of the Courts to conduct a statewide study to identify the criminal justice data elements currently collected and maintained by jails, courts, and prisons. The purpose of the study is to (i) identify gaps in data and accessibility of data for research purposes and for use by judicial officials and other stakeholders and (ii) to identify solutions for improving availability and accessibility of data to inform public policy through an integrated tool or other system. **Passed House. Pending in Senate.**

*[HB 930](#) (**Improve Success of Reentry by Inmates**) Requires the NC Administrative Office of the Courts to help district attorneys and the NC Department of Public Safety resolve pending misdemeanors and traffic infractions prior to their release from prison in order to facilitate successful reentry. Establishes fee waivers for people exiting prison for birth certificates and driver's licenses. **Pending in House.**

*[HB 988](#) (**Next Step Act**) Limits the shackling of incarcerated women during pregnancy, delivery, and post-partum. Requires imprisoned parents of minor children to be placed within 250 miles of their home address. Requires NCDPS to provide access to feminine hygiene products to indigent people. Appropriates \$3.2 million to provide telemedicine for mental health support during certain hours. Appropriates \$2.5 million for improving and expanding the court date notification system. Appropriates \$12 million for behavioral health and therapy diversion unit. Appropriates \$7.5 million for day treatment program for NC Correctional Institution for Women. Appropriates \$2.8 million for local reentry councils to fund housing supporting specialist and peer support counselors and to fund rental assistance programs and transportation assistance programs. **Pending in House.**

[HB 37](#) (**Child Sex Abuse/Extend Statute of Limitations**) - Extends the statute of limitations for a civil action for child sexual abuse so that a plaintiff has until age thirty-eight to commence an action; and requires training related to child sexual abuse and sex trafficking for school personnel. **Passed House. Pending in Senate.**

[SB 199](#) (**Child Sex Abuse/Strengthen Laws**) - Increases prosecutorial options when there are delayed reports of juveniles who are victims of violent offenses, sexual offenses, or child abuse. Expands the duty to report child abuse. Protects children from online predators. Extends the statute of limitations for a civil action for child sexual abuse so that a plaintiff has until age thirty-eight to commence an action. Requires training related to child sexual abuse and sex trafficking for school personnel. **Passed House; Passed Senate; in conference committee.**

[SB 563 \(Right to Revoke Consent\)](#) – Provides that a person who continues to engage in intercourse or sexual act after consent is withdrawn is deemed to have committed the act of intercourse or sexual act by force and against the will of the other person. **Pending in Senate.**

*[SB 494/HB 909 \(Revocation of License/Penalty/Costs\)](#) Requires “ability to pay” finding prior to suspension of driver’s license for failure to pay court costs. Limits driver’s license suspensions for failure to pay court costs to a maximum period of 12-months. Establishes indigency waiver for DMV reinstatement fee. **Pending in House/Senate.**

*[SB 545 \(Fair Chance Hiring\)](#) Prohibits state agencies from asking about an applicant’s criminal record unless the person has been given a conditional offer of employment. Once an applicant’s criminal history is reviewed, the state agency must consider several factors, including the length of time since the conviction, the age of the person at the time of the offense, and whether the offense “reasonably relates” to the duties and responsibilities of the job. **Pending in Senate.**

*[SB 834 \(Ban the Box\)](#)- Prohibits state agencies from inquiring into or considering the criminal record of a job applicant until applicant has been selected for an interview. **Pending in Senate.**

*[SB 502 \(Ban the Box\)](#) – Prohibits state agencies and local governments from considering a job applicant’s criminal record until there has been a conditional offer of employment and establishes criteria for evaluating if a criminal record excludes a job applicant. **Pending in Senate.**

*[SB 561/HB 463 \(Education/Job Readiness in Prisons and Jails\)](#) - Provides people in state prisons access to state financial aid through the UNC System and restores the ability of community colleges to provide more courses in prisons and jails. **Passed House; Pending in Senate.**

[SB 407 \(Funds to Aid Jails with Addiction Treatment\)](#) - Appropriates \$1 million to expand a drug treatment program piloted in Forsyth County. **Pending in Senate.**

[HB 839 \(Study Community-Based Sentencing Alternatives\)](#) - Creates a legislative study committee to study community-based sentencing alternatives for people who are convicted of nonviolent crimes and are the primary caretakers of dependent children. **Pending in House.**

Appropriations & Special Provisions:

[SB 118 \(Prison Safety/TANF State Plan/Clarification\)](#) Various appropriations totaling four million four hundred seventy-one thousand one hundred forty-nine dollars (\$4,471,149) in nonrecurring funds for the 2019-2020 fiscal year for the costs associated with listed prison safety expenditures: (1) Four hundred thousand dollars (\$400,000) to purchase additional stab resistant vests and exterior carriers for certified prison staff; (2)

Seven hundred thirty thousand nine hundred thirty-seven dollars (\$730,937) to erect security netting over prison fence lines to deter and intercept contraband; (3) Two hundred sixteen thousand seven hundred fifty dollars (\$216,750) to purchase additional handheld metal detectors to reduce contraband in prison facilities; (4) Six hundred seventy-five thousand three hundred sixty dollars (\$675,360) to be used to purchase customizable key lock boxes distributed throughout prison facilities; (5) Two million four hundred forty-eight thousand one hundred two dollars (\$2,448,102) for Information Technology security equipment upgrades for prison mandown technology and cameras.

[HB 1001](#) (**Raise the Age Funding**) - Provides funding for “Raise the Age.” Increases the number of full-time assistant district attorneys allowed in certain prosecutorial districts, adjusts the number of district court judges allowed in certain district court districts, and appropriate funds to the Administrative Office of the Courts, the Office of Indigent Defense Services, and the Department of Public Safety to cover costs associated with increased staff and other additional resources needed to implement Section 16D.4 of S.L. 2017-57 ("Raise the Age legislation").
