

Criminal Law and Procedure

See full summary documents for additional detail

H98 - Criminal Offense/Vandalize Fire & EMS Equipment. (SL 2017-89)

S.L. 2017-89 creates the specific criminal offense of intentionally damaging equipment used for fire-fighting or emergency medical services. This act is effective December 1, 2017, and applies to offenses committed on or after that date.

H125 - Threatened Weapon Included in First Degree Rape. (SL 2017-30)

S.L. 2017-30 expands the offense of first-degree forcible rape to include having vaginal intercourse with a person by force and against that person's will while threatening to use a dangerous or deadly weapon.

This act becomes effective December 1, 2017 and applies to offenses committed on or after that date.

H128 - Prohibit Drone Use Over Prison/Jail. (SL 2017-179)

H138 - Revise Gang Laws. (SL 2017-194)

S.L. 2017-194 makes changes to the laws governing criminal gang activity to create criteria for classification of criminal gang membership, create a sentencing enhancement for certain crimes committed by gang members, and increase the penalties for certain gang-related offenses.

This act becomes effective December 1, 2017 and applies to acts committed on or after that date.

H224 - Warrant Check of Inmates in Custody. (SL 2017-101)

S.L. 2017-101 clarifies the requirement created in S.L. 2015-48 for courts to attempt to determine if a defendant has any outstanding warrants. This act is effective December 1, 2017, and applies to orders entered on or after that date.

H225 - Attempted Robbery is Lesser Included. (SL 2017-31)

S.L. 2017-31 clarifies that attempted robbery with a dangerous weapon is a lesser included offense of robbery with a dangerous weapon by explicitly stating that if evidence is sufficient to prove robbery with

a dangerous weapon, it is also sufficient to support a conviction of attempted robbery with a dangerous weapon.

This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.

H384 - Increase Penalties/Organized Retail Theft. (SL 2017-162)

S.L. 2017-162 expands the organized retail theft statutes and addresses gift cards and merchandise cards in existing law. This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.

H399 - Stop Images Taken Without Consent From Dissemination. (SL 2017-93)

S.L. 2017-9 amends the criminal law that prohibits the disclosure of private images. This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.

H464 - Revise Schedule of Controlled Substances. (SL 2017-115)

S.L. 2017-115 amends the classification of controlled substances and creates a Task Force on Sentencing Reforms for Opioid Drug Convictions. The classification changes become effective December 1, 2017, and apply to offenses committed on or after that date and the task force provision became effective July 18, 2017.

S257 - Appropriations Act of 2017.

Sec. 16B.3: Protect Hospital Security Personnel. (SL 2017-57)

Section 16B.3 of S.L. 2017-57 provides a Class I felony for an assault or affray causing physical injury on hospital security personnel who are discharging or attempting to discharge their official duties.

This section becomes effective December 1, 2017, and applies to offenses committed on or after that date.

S257 - Appropriations Act of 2017.

Sec. 16B.10: Expand SBI Jurisdiction and Establish State Capitol Police. (SL 2017-57)

Section 16B.10 of S.L. 2017-57 adds human trafficking and crimes pertaining to the manufacture, use, false reporting, and hoaxes involving nuclear, biological, or chemical weapons of mass destruction to the list of crimes the State Bureau of Investigation (SBI) is authorized to investigate. This section also relocates the State Capitol Police Section of the State Highway Patrol and establishes it as The State Capitol Police Division within the Department of Public Safety. This section of the act became effective on July 1, 2017.

S257 - Appropriations Act of 2017.

Sec. 16D.4: Juvenile Justice Reinvestment Act. (SL 2017-57)

Section 16D.4 of S.L. 2017-57 does the following:

1. raises the age of juvenile jurisdiction to include 16 and 17 year olds, except in the case of A-G felonies;
2. provides a victim an opportunity to request review of a decision not to file a juvenile petition;
3. increases the information available on juveniles to law enforcement and for court proceedings;
4. authorizes school-justice partnerships statewide to reduce school based referrals to the juvenile court system;
5. requires regular juvenile justice training for law enforcement officers;
6. provides for gang assessments and enhanced sentencing for offenses committed as part of criminal gang activity; and
7. establishes the Juvenile Jurisdiction Advisory Committee.

This section has various effective dates. Please see the full summary for more detail.

S257 - Appropriations Act of 2017.

Sec. 17.4: Strengthen Human Trafficking Laws. (SL 2017-57)

Section 17.4 of S.L. 2017-57 requires public-awareness signs containing information about the National Human Trafficking Resource hotline to be displayed at specified establishments and locations. This section became effective June 28, 2017.

S257 - Appropriations Act of 2017.

Sec. 17.7: Sexual Assault Evidence Collection Kits. (SL 2017-57)

Section 17.7 of S.L. 2017-57 requires each local law enforcement agency to inventory all Sexual Assault Evidence Collection Kits (SAECKS) in its custody; compile specific data; and report findings to the Department of Justice, and State Crime Laboratory no later than January 1, 2018. The State Crime Laboratory must then compile the information provided, and report to the General Assembly no later than March 1, 2018. This section became effective July 1, 2017.

S344 - Combine Adult Correction & Juvenile Justice. (SL 2017-186)

Parts I through III of S.L. 2017-186 statutorily combine the Division of Adult Correction and the Division of Juvenile Justice into one division within the Department of Public Safety to make the statutes consistent with the fact that those divisions have been operating as a single Division of Adult Correction and Juvenile Justice. These parts become effective December 1, 2017.

Part IV exempts the coverage of eyeglasses from the services that will be covered by Prepaid Health Plans under Medicaid transformation and allows payment for eyeglasses to continue under existing arrangements.

Except as otherwise indicated, the act became effective July 25, 2017.

S384 - Criminal Law Changes. (SL 2017-176)

S.L. 2017-176 makes the following changes to laws related to criminal law and procedure:

- Makes various changes in the law relating to motions for appropriate relief under Chapter 15A of the General Statutes, as recommended by the North Carolina Courts Commission, and makes clarifying and technical changes to G.S. 7A-451 regarding the entitlement of an indigent person to services of counsel.
- Clarifies what prior criminal convictions may be used to establish habitual felon status and removes the sunset on driver's license eligibility for persons convicted of habitual impaired driving.
- Adds the offense of felony breaking or entering with intent to terrorize or injure to the list of offenses defined as "breaking and entering" for purposes of habitual breaking and entering.
- Creates a process to insure that defendants subject to the fingerprint requirement get fingerprinted.
- Amends the law regarding arrest and Citizen's Warrants.
- Amends the Sheriff's Supplemental Pension Fund.

This act has various effective dates and applicability provisions. Please see the full summary for more detail.

S388 - Incapacity to Proceed. (SL 2017-147)

S.L. 2017-147 requires reports ordered by courts of a criminal defendant's capacity to proceed to be released to clinicians at the program where the defendant is receiving capacity restoration and to clinicians designated by the Secretary of Health and Human Services; and creates a workgroup to evaluate the process and impact of capacity determination. This act became effective July 20, 2017.

S445 - Expungement Process Modifications. (SL 2017-195)

Effective December 1, 2017, S.L. 2017-195 makes modifications to the various expunction statutes as follows:

- Standardizes the filing procedures for expunction.
- Authorizes prosecutors to access certain records of expunction.
- Allows certain expunged criminal acts to be considered in calculating prior record levels during sentencing for subsequent offenses if the expunction is granted on or after July 1, 2018.
- Reduces the waiting period for certain types of expunctions.
- Makes other modifications to the expunction process.

S548 - Strengthen Human Trafficking Laws/Studies. (SL 2017-151)

S.L. 2017-151:

- Increases the felony level for human trafficking
- Requires licensure of establishments providing massage and bodywork therapy services
- Makes it a Class 1 misdemeanor to employ any unlicensed person to provide massage and bodywork therapy services to the public for which licensure is required
- Requires massage and bodywork therapists to obtain a statewide privilege license
- Directs the Department of Health and Human Services to study the feasibility of providing human trafficking training to health care providers, emergency medical providers, and relevant first responders.

This act has various effective dates. Please see the full summary for more detail.

S582 - Budget & Agency Technical Corrections.

Sec. 5.3: Driving While Impaired Misdemeanor Clarifications/Expert Testimony Revisions. (SL 2017-212)

Section 5.3 of S.L. 2017-212 amends S.L. 2017-57 by updating the statute of limitations for misdemeanor crimes, and amending the Rules of Evidence related to expert testimony in matters of impairment.

The changes to the statute of limitations in this act become effective December 1, 2017, and apply to offenses committed on or after that date. The amendment to the Rules of Evidence in this act became effective October 8, 2017.

S600 - Britny's Law: Intimate Partner Violence Homicide. (SL 2017-94)

S.L. 2017-94 creates a rebuttable presumption of premeditation, elevating a homicide to a first degree murder, if there is malice and the defendant has a certain prior conviction involving the same victim. This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.