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SMALL CLAIMS AND MISCELLANEOUS LEGISLATION AFFECTING MAGISTRATES

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This bulletin will discuss the bills enacted by the 2004 General Assembly that affect small claims and other noncriminal matters of interest to magistrates. An *Administration of Justice Bulletin* by John Rubin will be issued later that discusses all of the criminal law and procedure changes.

Magistrates' Terms of Office

Constitutional Amendment

The most significant bill affecting magistrates submits a constitutional amendment to the voters at the November 2004 general election to increase the length of terms of office for magistrates. Currently, magistrates' terms of office are two years. S.L. 2004-128 (S 577) proposes to amend Article IV, Section 10 of the North Carolina Constitution to provide that the initial term of appointment for a magistrate is two years and subsequent terms are for four years. This bill was supported by the North Carolina Magistrates Association and the State Judicial Council.

Statutory Implementation

The act also amends G.S. 7A-171 to implement the constitutional amendment, if it is adopted by the voters. It provides that the initial term is for two years, beginning on January 1 of the odd-numbered year after appointment. The filling of a vacancy for a partial term does not constitute the first term. But a magistrate who has served a two-year initial term is appointed to subsequent terms of four years even is there is a break in term of service, the initial term was served before the effective date of the act, or the term is for appointment in a different county. Thus, if adopted, the bill would cover a magistrate who had served an initial two-year term before January 1, 2005. It would also cover the following situations:

- Magistrate Jones was appointed as a magistrate in Surry County in 1995. He took the oath of office on January 1, 1995 and served until July 1, 2001. In 2005 Magistrate Jones decides he wants to come back as a magistrate and applies for a position. In December 2006 he is nominated and appointed in Surry County.

- When he takes the oath of office on January 1, 2007, that term will be for four years because he had served an initial two-year term from January 1, 1995 until December 31, 1996.
- Magistrate Smith was appointed as a magistrate in Guilford County and took the oath of office on January 1, 2001. She serves as a magistrate in Guilford until February 2006 when she moves to Mecklenburg County. In May of 2006 she is appointed to fill a vacancy in Mecklenburg County. In December 2006, she is appointed to a term beginning January 1, 2007. When she takes the oath of office on January 1, 2007 that term is for four years.

Procedure for Appointment

The new law also clarifies the procedures for nominating and appointing magistrates. Under the previous provision the statute required the clerk to send nominations to the senior resident superior court judge to fill the minimum quota established for the county and after the appointment of those magistrates to follow the same procedure for filling authorized positions above the minimum statutory quota. That provision was rarely followed. In most cases the clerk sent nominations for the total number of positions authorized for the county and the judge appointed for all of the authorized positions at one time. The amended G.S. 7A-171 adopts the practice of submitting nominations for all authorized positions that expire on December 31 of that year.

Effective Date of Constitutional Provision

If approved by the voters, the constitutional amendment is effective January 1, 2005.

However, the implementing amendment to G.S. 7A-171 becomes effective January 1, 2005 and "applies to appointments that take effect after that date." Because a public officer is required to take an oath of office before entering on the duties of his office,[1] an appointment as a magistrate would take effect on the date that the magistrate takes the oath of office. If a magistrate who has served an initial two-year term before January 1, 2005 takes the oath of office on January 2, 2005 or thereafter, that magistrate's term is for four years. However, if the magistrate takes the oath of office on January 1, 2005 the term is for two years only.

A magistrate who has been serving in office on December 31, 2004 automatically holds over until his or her successor is appointed and duly qualified.[2] Therefore, that magistrate is authorized to perform any duties as a holdover magistrate from January 1, 2005 until he or she takes the oath of office for a new term.

Small Claims

Amount in Controversy

S.L. 2004-128 (S 577) amends G.S. 7A-210 to increase the amount in controversy for a small claims case from $4,000 to $5,000 effective October 1, 2004. The increase applies to actions filed on or after that date.

Service of Process Fee

S.L. 2004-113 (H 918) amends G.S. 7A-311 to increase the sheriff's fee from $5 to $15 for serving civil process. Based on that increase, effective September 1, 2004, the cost for filing a small claims action against one defendant is $70 ($12 facilities fee, $43 General Court of Justice fee, and $15 fee to the sheriff for serving the complaint and summons). The new law provides that the counties must use 50% of the civil process fees to ensure the timely service of process, which may result in more deputies being hired to serve process.

Landlord Charge for Water and Sewer Service

S.L. 2004-143 (H 1083) was enacted to promote water conservation in multifamily residential properties. It adds G.S. 42.1 and 62-110(g) to authorize a landlord, in a written lease, to charge the cost of providing water or sewer to tenants who occupy the same contiguous premises. The costs must be based on the user's metered consumption, and the landlord must get prior approval for authority to charge for water or sewer services from the Utilities Commission. The landlord may charge a charge reasonable administrative fee for providing water or sewer service not to exceed an amount authorized by the Utilities Commission.

A landlord cannot disconnect or terminate water or sewer services for nonpayment of the amount due for that service. Failure to pay the costs for water or sewer can not be used as basis for termination of a lease, and any payment to the landlord must be applied to rent

[1] G.S. 128-5.

[2] G.S. 128-7.

owed first and then to the charges for water and sewer unless otherwise designated by the tenant. An interesting question is whether the provision that failure to pay the costs for water or sewer can not be used as a basis for termination of a lease would allow a tenant to raise an affirmative defense of retaliatory eviction if a landlord terminated a month-to-month or week-to-week lease and the tenant claims the termination was substantially as a result of tenant not paying the water or sewer bill.[3]

The landlord may not charge a late fee for failure to pay for water or sewer services but may use the security deposit for nonpayment of those costs.

The Residential Rental Agreements Act (GS 42-42) is amended to require a landlord who is providing water or sewer service and who has actual knowledge from the supplying water system or other reliable source that water being supplied to tenants exceeds the maximum contaminant level to notify tenants that water exceeds maximum contaminant level.

S.L. 2004-143 became effective August 1, 2004.

Domestic Violence Protective Orders

S.L. 2004-186 (H 1354) made numerous significant changes in domestic violence law, most of which affected criminal prosecutions and are discussed in the Administration of Justice Bulletin on criminal law and procedure. The noncriminal change that affects magistrates who are authorized to issue ex parte domestic violence protective orders deals with granting child custody as a type of relief in an ex parte domestic violence protective order. Formerly, G.S. 50B-2(c1) provided that a magistrate could enter a temporary order for custody in an ex parte domestic violence order only if the magistrate found that the child was exposed to a substantial risk of bodily injury or sexual abuse. Under S.L. 2004-186 a magistrate may order custody ex parte if there is a substantial risk of physical or emotional injury or sexual abuse. Neither "physical" nor "emotional" injury is defined. Black's Law Dictionary states that physical injury and bodily injury are the same and defines bodily injury as "physical damage to a person's body."[4] Thus, physical injury probably means more than mere physical contact and less than "serious" injury.

The closest definition of emotional injury[5] found in North Carolina law is in the criminal rape and sexual offense law where inflicting "serious personal injury: raises the offense to first degree. The court has held that "serious personal injury" can be mental or emotional injury,[6] but the injury must be extended for some appreciable time beyond the incidents surrounding the crime itself.[7] Testimony that the victim moved out of her home to live with her niece because she was "scared to go back" home was not sufficient to support a conclusion that the victim sustained a "serious" personal injury.[8] But evidence that victim suffered appetite loss, severe headaches and sleep difficulty was sufficient to prove "serious personal injury."[9] "Emotional injury" for purposes of an ex parte domestic violence protective order does not require serious injury so what is required should be less than that required by the court for serious personal injury.

One issue is whether the plaintiff must show some specific emotional behavioral change in the child such as crying, nightmares or whether statistical information about emotional damage to children witnessing domestic violence is sufficient. The statute specifies that the magistrate must determine whether the child is exposed to a substantial risk of emotional injury, not that the child has suffered emotional injury. Therefore, statistical evidence about the affect on children of witnessing domestic violence may be sufficient.

Similarly, the magistrate may find that the child is exposed to a substantial risk of physical injury if the defendant struck the plaintiff while the plaintiff was holding the child even though the child was not actually hit.

If the plaintiff requests custody, the magistrate must consider and may order the defendant to stay away from a minor child, to return a minor child to, or to not remove a minor child from the physical care of a

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[3] G.S. 42-37.1(a)(4) protects "a good faith attempt to exercise, secure or enforce any rights existing under State law."

[4] Black's Law Dictionary (7th ed. 1999).

[5] The only civil actions based on emotional injury alone are intentional or negligent infliction of emotional distress. But those actions require "severe emotional distress" which means neurosis, psychosis, chronic depression, phobia, any type of severe and disabling emotional or mental condition which may be generally recognized and diagnosed by professionals trained to do so. Johnson v. Ruark Obstetrics and Gynecology Associates, P.A., 327 N.C. 283, 304, 395 S.E.2d 85, 97 (1990). Clearly, emotional injury is less than is required for severe emotional distress.

[6] State v. Boone, 307 N.C. 198, 204, 297 S.E.2d 585, 589 (1982).

[7] State v. Boone, 307 N.C. at 205, 297 S.E.2d at 589.

[8] State v. Lilly 117 N.C.App. 192, 195, 450 S.E.2d 546, 548 (1994).

[9] State v. Davis, 101 N.C.App. 12, 398 S.E.2d 645 (1990), *dismissal allowed, disc. review denied*, 328 N.C. 574, 403 S.E.2d 516 (1991).

parent or person *in loco parentis* if the magistrate finds that

- the child is exposed to a substantial risk of physical or emotional injury or sexual abuse;
- the order is in the best interest of the minor child, and
- the order is necessary for the safety of the minor child.

If the magistrate determines that it is in the best interest of the minor child for the defendant to have contact with the minor child, the magistrate must issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order must specify the terms of contact between the defendant and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or a supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the plaintiff. Before a magistrate can grant child custody, the plaintiff must fill out an "Affidavit as to Status of Minor Child" (AOC-CV-609) for each child.

The new child custody provision does not affect the authority of a magistrate to order the defendant to stay away from various locations, such as the plaintiff's residence, the child's day care or school.

S.L. 2004-186 prohibits employers from discharging, demoting, or denying a promotion to an employee who took reasonable time off from work to attempt to obtain relief under Chapter 50B.

It also provides that 95¢ of every criminal and civil General Court of Justice portion of court costs that goes to the State Treasurer will be funneled to legal services programs to provide legal representation to domestic violence victims in actions for protective orders, child custody and visitation cases, and other services that ensure the safety of the client and the client's children. Magistrates might see legal services attorneys seeking ex parte orders on behalf of victims but more likely they will not appear on behalf of victims until the regular protective order hearing before a district court judge.

Finally, the new law mandates domestic violence training for law enforcement officers and requests the Supreme Court to adopt rules establishing minimum education for district court judges in handling civil and criminal domestic violence cases and to study training for all court personnel in the area of domestic violence.

Civil No-Contact Orders

Victims of Stalking or Sexual Conduct

Advocates of victims of stalking or sexual assault sought a statute providing for orders protecting those victims similar to the law protecting victims of domestic violence. S.L. 2004-194 (H 951) serves that purpose by adding a new General Statutes Chapter 50C to allow victims of stalking and nonconsensual sexual conduct that occurred in North Carolina to seek civil no-contact orders. The new law specifies that it is not available if the relationship between parties is a "personal relationship." In other words if the relationship is one that would qualify for a domestic violence protective order the parties must proceed under General Statutes Chapter 50B, not Chapter 50C. Chapter 50C is intended only for victims who cannot seek domestic violence orders.

Conduct Covered

Chapter 50C applies if the defendant commits an act of nonconsensual sexual conduct or stalking. Sexual conduct is defined as any intentional or knowing touching, fondling, or sexual penetration by a person, either directly or through clothing, of the sexual organs, anus, or breast of another for the purpose of sexual gratification or arousal. The definition of stalking is the same as the crime of stalking (G.S. 14-277.3)—following on more than one occasion or otherwise harassing another person without legal purpose with the intent to (a) place the person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates or (b) cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment and that in fact causes that person substantial emotional distress.

Filing the Action

A victim of unlawful conduct that occurred in North Carolina or an adult who resides in North Carolina on behalf of a minor child or incompetent adult who is a victim of unlawful conduct that occurred in this state may seek a no-contact order by filing a verified complaint for an order in district court. The action may be filed in the county where the unlawful conduct occurred, where the plaintiff resides, or where the defendant resides. The victim may omit his or her address from all documents filed with the court and designate an alternative address to receive notice of motions or pleadings if the victim states that disclosure would place the victim or a member of the victim's family or household at risk for further unlawful conduct.

There are no court costs for filing this action. The summons and complaint must be served by sheriff by personal delivery in accordance with Rule 4 and if the sheriff cannot by due diligence serve in that manner be the defendant may be served by publication in accordance with Rule 4(j1).

Ex parte Temporary Order

Generally, ex parte orders will be issued by a district court judge. However, The law authorizes the chief district judge of each judicial district to designate at least one district court judge or magistrate for each county to be available to issue ex parte temporary orders when district court is not in session. If a magistrate is designated to hear those cases, the statute provides that the complainant may file for a temporary order before the magistrate, which would allow the complainant to file the verified complaint with the magistrate. In order to issue a temporary no-contact order, the magistrate must find that

- it clearly appears from the specific facts shown by the complaint that immediate injury, loss, or damage will result to the victim before the defendant can be heard in opposition;
- the plaintiff certifies to the court (a) the efforts, if any, that have been made to give notice to the defendant and the reasons supporting the claim that notice should not be required or (b) that there is good cause to grant the remedy because the harm that the remedy is intended to prevent would likely occur if the respondent were given any prior notice of the plaintiff's efforts to obtain judicial relief;
- the victim suffered unlawful conduct committed by the defendant (but physical injury is not required); and
- there is an immediate and present danger of harm to the victim.

If there is no evidence of immediate injury, loss or damage or the plaintiff does not certify to the necessity of a hearing without notice, a district court judge may issue a temporary order after notice to the defendant.

An ex parte temporary order must include date and hour of issuance; be filed immediately in clerk's office and entered of record; define the injury and state why it is irreparable and why the order was granted without notice; state when it expires; and give notice of date of hearing for permanent order.

A temporary order is effective for not more than 10 days unless within that time the court extends the order for good cause for up to 10 days or for a longer period of time with consent of the defendant. It is unclear whether "court" includes a magistrate for purposes of extending an ex parte order for an additional ten days but the safest practice would be for a district court judge to extend the order.

Relief

In a temporary no-contact order the magistrate may order

- defendant not to visit, assault, molest, or interfere with the victim;
- defendant to cease stalking the victim;
- defendant to cease harassment of the victim;
- defendant not to abuse or injure the victim;
- defendant not to contact victim;
- defendant not to enter or remain present at victim's residence, school, place of employment, or other specified places at times when victim is present.
- any other relief the magistrate determines is necessary and appropriate.

Permanent Order

Chapter 50C allows a district court judge to enter a permanent no-contact order after notice to a defendant. Although designated a permanent order, it may not be for longer than one year, but the order may be renewed by a district court judge.

Penalty for Violating Order

A knowing violation of a no-contact order is punishable as contempt. A district court judge must conduct the contempt hearing. A judge, magistrate or clerk may issue a show cause order to appear before the judge for a contempt hearing. However, magistrates should check with their chief district judge before issuing show cause orders in this situation. Violating a no-contact order is not a separate crime like violating a domestic violence protective order. However, the conduct engaged in by the defendant that constitutes a violation may also constitute a crime. For example, if the no-contact order prohibits the defendant from injuring the plaintiff and the defendant hits the plaintiff, the defendant can be charged with assault.

Effective Date

S.L. 2004-194 is effective December 1, 2004 and applies "to actions that give rise to civil no-contact orders issued under this act on or after that date." This provision is not clear. If "actions" means conduct then it could be interpreted to mean that the unlawful conduct must occur on or after December 1. If "actions"

means the lawsuit, the provision could mean that the complaint or motion for a no-contact order must be filed on or after December 1 but the conduct giving rise to the complaint can occur before that date. Finally, it is possible to read the provision that phrase "on or after this date" modifies civil contact orders issued under this act. Under that reading the no-contact order itself must be issued on or after December 1. There is no constitutional prohibition about seeking a civil order for conduct that occurred before the effective date of the act. Therefore, the better reading is either that it applies to actions or motions filed on or after December 1 or no-contact orders issued on or after that date. I believe that the grammatically correct reading would be that the order is entered on or after December 1, but the safer reading would be that the lawsuit or motion seeking the order was filed on or after that date.

Workplace Violence

S.L. 2004-165 (S 916) **a**dds Article 23 to General Statutes Chapter 95 allowing an employer to file a district court civil action seeking a no-contact order on behalf of an employee who has suffered unlawful conduct at employer's workplace. The employer must consult with the employee before seeking an order to determine whether there are safety concerns for the employee in participating in the process, but the employee's consent is not required.

"Unlawful conduct" is defined as:

- attempting to cause bodily injury or intentionally causing bodily injury;
- willfully and on more than one occasion, following, being in the presence of, or otherwise harassing (as defined in G.S. 14-277.3—the criminal stalking law) without legal purpose and with intent to place the employee in reasonable fear for the employee's safety; or
- willfully threatening by any means to physically injure the employee in a manner and under circumstances that would cause a reasonable person to believe that the threat is likely to be carried out and that actually causes the employee to believe that the threat will be carried out.

The procedure to seek a workplace violence order is almost identical to that for victims of stalking or sexual conduct, except that court costs are assessed for filing this action. The court may issue a ten-day temporary no-contact order and a permanent order for up to one year.

Ex Parte Temporary Order

The chief district judge may appoint at least one district judge or magistrate in each county to be reasonably available to issue temporary civil no-contact orders when court is not in session.

The magistrate may issue a temporary no-contact order if

- it clearly appears from the specific facts shown by the complaint that immediate injury, loss, or damage will result to the complainant or employee before the defendant can be heard in opposition;
- the plaintiff certifies to the court either (a) the efforts, if any, that have been made to give notice to the defendant and the reasons supporting the claim that notice should not be required or (b) that there is good cause to grant the remedy because the harm that the remedy is intended to prevent would likely occur if the defendant were given any prior notice of the plaintiff's efforts to obtain judicial relief;
- the employee suffered unlawful conduct carried out at the workplace by the defendant; and
- there is an immediate and present danger of harm to the employee.

Relief

If the employer proves that the employee has been the subject of unlawful conduct at the employer's place of business, an authorized magistrate may order:

- defendant not to visit, assault, molest, or otherwise interfere with employer or employer's employee at the workplace;
- defendant to cease stalking the employee at the workplace;
- defendant to cease harassment of the employer or employee at the workplace;
- defendant not to abuse or injure the employer, employee or employer's property at the workplace;
- defendant not to contact either the employer or employee at the workplace; or
- any other relief that is necessary and appropriate.

An ex parte temporary order must include date and hour of issuance; be filed immediately in clerk's office and entered of record; define the injury and state why it is irreparable and why the order was granted without notice; state when it expires; and give notice of date of hearing for permanent order. A temporary order is effective for not more than 10 days unless within that time the court extends the order for good cause for up

to 10 days or for a longer period of time with consent of the defendant. The penalty for violating a no-contact order is contempt.

Employment Discrimination Prohibited

A new General Statute 95-270 prohibits an employer from discharging, demoting, denying promotion to, or disciplining an employee who takes a reasonable amount of time off from work to obtain relief under Chapter 50B or Chapter 50C. (The provisions with regard to discharge for obtaining 50B order are identical to provisions in S.L. 2004-186 (H 1354), amending GS Ch. 50B.)

Effective Date

The act is effective December 1, 2004 and applies to actions that give rise to no-contact orders issued under this act on or after that date. See the discussion in the section on no-contact orders for victims of stalking or sexual conduct for a discussion of this provision.

Involuntary Commitment

In a high profile case in the Raleigh area, law enforcement officers refused to serve an involuntary commitment custody order in the county in which the defendant was found because the order was issued in another county. Both the law enforcement officers and apparently the magistrate with whom they spoke believed that the custody order could be served only in the county in which it was issued. Although that was not in fact correct, S.L. 2004-23 (H 1366) was enacted to specifically provide in the involuntary commitment statutes that a custody order issued by a magistrate or clerk is valid throughout the state and can be served in any county in North Carolina no matter where it was issued.

Court Administration

Budget

New Positions

S.L. 2004-124 (H 1414) adds the following new court officials:

- 2 magistrates, one each in Davie and Macon Counties.
- 2 resident superior court judges, one in District 3B and one in District 15B.
- 1 special superior court judge, effective Dec. 1, 2004.
- 4 new district court judges, one in each of the following districts: 5, 17B, 21, 29.
- 40 deputy clerks beginning Oct. 1, 2004.
- 15 assistant district attorneys, one in each of the following districts: 1, 2, 7, 9, 10, 13, 16B, 18, 25, 27B, 28, 30 and 3 in District 26. Effective Dec. 1, 2004.
- 1 investigatorial assistant for the district attorney in District 16A, effective Jan. 1, 2005.
- 2 legal assistants for the district attorney in District 4.
- 2 roving court reporters.
- Authorizes Indigent Defense Services (IDS) to create 12 new attorney positions and 6 support staff positions for expansion of existing public defender offices

Provisions Affecting Magistrates

- Requires AOC to evaluate the need for magistrates across the state and to reexamine the caseload formula it uses to assign priority to need for magistrates and report to the General Assembly by March 15, 2005.
- Amends GS 7A-171.1 to provide that a magistrate licensed to practice law in any State, not only North Carolina, begins at Step 4 of the salary scale.

Programs

- Authorizes AOC to use up to $500,000 in receipts collected from Worthless Check Program to create up to 10 positions in district attorneys' offices that are establishing or expanding worthless check programs.
- Requires AOC to develop a plan to continue drug treatment court services through time-limited non-State funding. Provides funding for drug treatment programs in Durham, Mecklenburg and Randolph counties.
- Requires AOC to conduct a pilot program in District 27B for SBI lab analysts to provide courtroom testimony by videoconference.
- Requires AOC to conduct pilot mental health courts as a component of drug treatment courts in Districts 15B, 26 and 28. Appropriates $36,000 to AOC to pay for administrative and evaluation costs of operating the pilot mental health courts.
- Provides $1 million for interpretation services in court proceedings.
- Provides $50,000 to expand custody media-

tion into a district the AOC identifies as the top priority.
- Appropriates $150,000 to create Family Court in an additional district to be determined by AOC from one of the following Districts: 3A, 10, 19B, 21, 23, and 28. The AOC has announced that District 28 will get the new family court.
- Establishes a public defender's office in the 1st District, effective July 1, 2004 and the 10th District, effective July 1, 2005.
- Authorizes IDS to create an Office of Juvenile Defender, with one attorney and one staff member.
- Appropriates $8.5 million to pay off backlog of payments due to attorneys who have provided legal representation to indigent criminal defendants and appropriates $2.5 to help keep current for 2004-05.

General

- Increases salaries of court officials by the greater of $1,000 or 2.5 %.
- Requires AOC to study mandatory retirement age for judges and recommend whether the policy should be changed and report its findings to General Assembly by Feb. 1, 2005.
- Provides funds for necessary enhancement to the Automated Court Information System to track domestic violence offenders and to provide training to judicial officials on domestic violence matters.
- Provides money for digital recording equipment for district court.
- Adds money to increase average compensation for attorneys representing children as guardians ad litem from $35 to $45 per hour.
- Creates a research analyst position in the Sentencing and Policy Advisory Comm'n to produce reports on juvenile recidivism.
- Continues study (jointly with Dep't of Correction) of amounts of money ordered to
- be paid on probation (supervised and unsupervised) and amounts collected.

Studies

S.L. 2004-161 (S 1152) authorizes the following studies that may have an impact on the courts.

- Authorizes the Legislative Research Commission to study towing laws and lienholder notification when vehicles are abandoned or seized; sentencing guidelines; judicial approval for pleas in certain cases; reclassifying statutory rape; the habitual felon law; restructuring prior criminal record points; sentence lengths; adjusting penalties to B1 to E offenses; arson offenses; drug trafficking laws; giving notice of rights to contest mechanic's lien storage charges under DWI seizures; youthful offenders, and street gang terrorism prevention.
- Requires the Administrative Office of the Courts and Department of Correction to jointly study processes for collection of restitution and determine methods for reducing the number of restitution payments that go unclaimed.
- Authorizes the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee to study the State's current system of structured sentencing and compare it with the federal system.
- Requires the North Carolina Sentencing and Policy Advisory Commission to study structured the sentencing law in light of *Blakely v. Washington.*
- Creates a Legislative Commission on State Guardianship Laws to study guardianship laws and relationship to powers of attorney, right to death and other laws.