SUBCHAPTER IV. ARREST.

Article 20.

Arrest.

§ 15A-401. Arrest by law-enforcement officer.

(a) Arrest by Officer Pursuant to a Warrant. –

(1) Warrant in Possession of Officer. – An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.

(2) Warrant Not in Possession of Officer. – An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This subdivision applies even though the arrest process has been returned to the clerk under G.S. 15A-301.

(b) Arrest by Officer Without a Warrant. –

(1) Offense in Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense, or has violated a pretrial release order entered under G.S. 15A-534 or G.S. 15A-534.1(a)(2), in the officer's presence.

(2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:

a. Has committed a felony; or

b. Has committed a misdemeanor, and:

1. Will not be apprehended unless immediately arrested, or

2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or

c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or

d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; or

e. Has committed a misdemeanor under G.S. 50B-4.1(a); or

f. Has violated a pretrial release order entered under G.S. 15A-534 or G.S. 15A-534.1(a)(2).

(3) Repealed by Session Laws 1991, c. 150.

(4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5.

(c) How Arrest Made. –

(1) An arrest is complete when:

a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or

b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.

(2) Upon making an arrest, a law-enforcement officer must:

a. Identify himself as a law-enforcement officer unless his identity is otherwise apparent,

b. Inform the arrested person that he is under arrest, and

c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.

(d) Use of Force in Arrest. –

(1) Subject to the provisions of subdivision (2), a law-enforcement officer is justified in using force upon another person when and to the extent that he reasonably believes it necessary:

a. To prevent the escape from custody or to effect an arrest of a person who he reasonably believes has committed a criminal offense, unless he knows that the arrest is unauthorized; or

b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;

b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or

c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(e) Entry on Private Premises or Vehicle; Use of Force. –

(1) A law-enforcement officer may enter private premises or a vehicle to effect an arrest when:

a. The officer has in his possession a warrant or order or a copy of the warrant or order for the arrest of a person, provided that an officer may utilize a copy of a warrant or order only if the original warrant or order is in the possession of a member of a law enforcement agency located in the county where the officer is employed and the officer verifies

with the agency that the warrant is current and valid; or the officer is authorized to arrest a person without a warrant or order having been issued,

b. The officer has reasonable cause to believe the person to be arrested is present, and

c. The officer has given, or made reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice would present a clear danger to human life.

(2) The law-enforcement officer may use force to enter the premises or vehicle if he reasonably believes that admittance is being denied or unreasonably delayed, or if he is authorized under subsection (e)(1)c to enter without giving notice of his authority and purpose.

(f) Use of Deadly Weapon or Deadly Force to Resist Arrest. –

(1) A person is not justified in using a deadly weapon or deadly force to resist an arrest by a law-enforcement officer using reasonable force, when the person knows or has reason to know that the officer is a law-enforcement officer and that the officer is effecting or attempting to effect an arrest.

(2) The fact that the arrest was not authorized under this section is no defense to an otherwise valid criminal charge arising out of the use of such deadly weapon or deadly force.

(3) Nothing contained in this subsection (f) shall be construed to excuse or justify the unreasonable or excessive force by an officer in effecting an arrest. Nothing contained in this subsection (f) shall be construed to bar or limit any civil action arising out of an arrest not authorized by this Article.

(g) Care of minor children. – When a law enforcement officer arrests an adult who is supervising minor children who are present at the time of the arrest, the minor children must be placed with a responsible adult approved by a parent or guardian of the minor children. If it is not possible to place the minor children with a responsible adult approved by a parent or guardian within a reasonable period of time, the law enforcement officer shall contact the county department of social services. (1868-9, c. 178, subch. 1, ss. 3, 5; Code, ss. 1126, 1128; Rev., ss. 3178, 3180; C.S., ss. 4544, 4546; 1955, c. 58; 1973, c. 1286, s. 1; 1979, c. 561, s. 3; c. 725, s. 4; 1983, c. 762, s. 1; 1985, c. 548; 1991, c. 150, s. 1; 1995, c. 506, s. 10; 1997-456, s. 3; 1999-23, s. 7; 1999-399, s. 1; 2002-179, s. 14; 2004-186, s. 13.1; 2009-544, s. 2; 2011-245, s. 1.)

§ 15A-402. Territorial jurisdiction of officers to make arrests.

(a) Territorial Jurisdiction of State Officers. – Law-enforcement officers of the State of North Carolina may arrest persons at any place within the State.

(b) Territorial Jurisdiction of County and City Officers. – Law-enforcement officers of cities and counties may arrest persons within their particular cities or counties and on any property and rights-of-way owned by the city or county outside its limits.

(c) City Officers, Outside Territory. – Law-enforcement officers of cities may arrest persons at any point which is one mile or less from the nearest point in the boundary of such city. Law enforcement officers of cities may transport a person in custody to or from any place within the State for the purpose of that person attending criminal court proceedings. While engaged in the transportation of persons for the purpose of attending criminal court proceedings, law

enforcement officers of cities may arrest persons at any place within the State for offenses occurring in connection with and incident to the transportation of persons in custody.

(d) County and City Officers, Immediate and Continuous Flight. – Law-enforcement officers of cities and counties may arrest persons outside the territory described in subsections (b) and (c) when the person arrested has committed a criminal offense within that territory, for which the officer could have arrested the person within that territory, and the arrest is made during such person's immediate and continuous flight from that territory.

(e) County Officers, Outside Territory, for Felonies. – Law-enforcement officers of counties may arrest persons at any place in the State of North Carolina when the arrest is based upon a felony committed within the territory described in subsection (b). For purposes of this subsection, law enforcement officers of counties shall include all officers of consolidated county-city law enforcement agencies.

(f) Campus Police Officers, Immediate and Continuous Flight. – A campus police officer: (i) appointed by a campus law-enforcement agency established pursuant to G.S. 116-40.5(a); (ii) appointed by a campus law enforcement agency established under G.S. 115D-21.1(a); or (iii) commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes and employed by a college or university which is licensed, or exempted from licensure, by G.S. 116-15 may arrest a person outside his territorial jurisdiction when the person arrested has committed a criminal offense within the territorial jurisdiction, for which the officer could have arrested the person within that territory, and the arrest is made during such person's immediate and continuous flight from that territory. (1935, c. 204; 1973, c. 1286, s. 1; 1987, c. 671, s. 3; 1989, c. 518, s. 4; 1991 (Reg. Sess., 1992), c. 1043, s. 3; 1995, c. 206, s. 1; 1999-68, s. 2; 2005-231, s. 7; 2007-45, s. 1.)

§ 15A-403. Arrest by officers from other states.

(a) Any law-enforcement officer of a state contiguous to the State of North Carolina who enters this State in fresh pursuit and continues within this State in such fresh pursuit of a person who is in immediate and continuous flight from the commission of a criminal offense, has the same authority to arrest and hold in custody such person on the ground that he has committed a criminal offense in another state which is a criminal offense under the laws of the State of North Carolina as law-enforcement officers of this State have to arrest and hold in custody a person on the ground that he has committed a criminal offense in this State.

(b) If an arrest is made in this State by a law-enforcement officer of another state in accordance with the provisions of subsection (a), he must, without unnecessary delay, take the person arrested before a judicial official of this State, who must conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judicial official determines that the arrest was lawful, he must commit the person arrested to await a reasonable time for the issuance of an extradition warrant by the Governor of this State or release him pursuant to Article 26 of this Chapter, Bail. If the judicial official determines that the arrest was unlawful, he must discharge the person arrested.

(c) This section applies only to law-enforcement officers of a state which by its laws has made similar provision for the arrest and custody of persons closely pursued within its territory. (1973, c. 1286, s. 1.)

§ 15A-404. Detention of offenders by private persons.

(a) No Arrest; Detention Permitted. – No private person may arrest another person except as provided in G.S. 15A-405. A private person may detain another person as provided in this section.

(b) When Detention Permitted. – A private person may detain another person when he has probable cause to believe that the person detained has committed in his presence:

(1) A felony,
(2) A breach of the peace,
(3) A crime involving physical injury to another person, or
(4) A crime involving theft or destruction of property.

(c) Manner of Detention. – The detention must be in a reasonable manner considering the offense involved and the circumstances of the detention.

(d) Period of Detention. – The detention may be no longer than the time required for the earliest of the following:

(1) The determination that no offense has been committed.
(2) Surrender of the person detained to a law-enforcement officer as provided in subsection (e).

(e) Surrender to Officer. – A private person who detains another must immediately notify a law-enforcement officer and must, unless he releases the person earlier as required by subsection (d), surrender the person detained to the law-enforcement officer. (1973, c. 1286, s. 1.)

§ 15A-405. Assistance to law-enforcement officers by private persons to effect arrest or prevent escape; benefits for private persons.

(a) Assistance upon Request; Authority. – Private persons may assist law-enforcement officers in effecting arrests and preventing escapes from custody when requested to do so by the officer. When so requested, a private person has the same authority to effect an arrest or prevent escape from custody as the officer making the request. He does not incur civil or criminal liability for an invalid arrest unless he knows the arrest to be invalid. Nothing in this subsection constitutes justification for willful, malicious or criminally negligent conduct by such person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(b) Benefits to Private Persons. – A private person assisting a law-enforcement officer pursuant to subsection (a) is:

(1) Repealed by Session Laws 1989, c. 290, s. 1.
(2) Entitled to the same benefits as a "law-enforcement officer" as that term is defined in G.S. 143-166.2(d) (Law-Enforcement Officers', Firemen's and Rescue Squad Workers' Death Benefit Act); and
(3) To be treated as an employee of the employer of the law-enforcement officer within the meaning of G.S. 97-2(2) (Workers' Compensation Act).

The Governor and the Council of State are authorized to allocate funds from the Contingency and Emergency Fund for the payment of benefits under subdivision (3) when no other source is available for the payment of such benefits and when they determine that such allocation is necessary and appropriate. (1868-9, c. 178, subch. 1, s. 2; Code, s. 1125; Rev., s. 3181; C.S., s. 4547; 1973, c. 1286, s. 1; 1979, c. 714, s. 2; 1989, c. 290, s. 1.)

§ 15A-406. Assistance by federal officers.

(a) For purposes of this section, "federal law enforcement officer" means any of the following persons who are employed as full-time law enforcement officers by the federal government and who are authorized to carry firearms in the performance of their duties:

(1) United States Secret Service special agents;
(2) Federal Bureau of Investigation special agents;
(3) Bureau of Alcohol, Tobacco and Firearms special agents;
(4) United States Naval Investigative Service special agents;
(5) Drug Enforcement Administration special agents;
(6) United States Customs Service officers;
(7) United States Postal Service inspectors;
(8) Internal Revenue Service special agents;
(9) United States Marshals Service marshals and deputies;
(10) United States Forest Service officers;
(11) National Park Service officers;
(12) United States Fish and Wildlife Service officers;
(13) Immigration and Naturalization Service officers;
(14) Tennessee Valley Authority officers; and
(15) Veterans Administration police officers.

(b) A federal law enforcement officer is authorized under the following circumstances to enforce criminal laws anywhere within the State:

(1) If the federal law enforcement officer is asked by the head of a state or local law enforcement agency, or his designee, to provide temporary assistance and the request is within the scope of the state or local law enforcement agency's subject matter and territorial jurisdiction; or
(2) If the federal law enforcement officer is asked by a state or local law enforcement officer to provide temporary assistance when at the time of the request the state or local law enforcement officer is acting within the scope of his subject matter and territorial jurisdiction.

(c) A federal law enforcement officer shall have the same powers as those invested by statute or common law in a North Carolina law enforcement officer, and shall have the same legal immunity from personal civil liability as a North Carolina law enforcement officer, while acting pursuant to this section.

(d) A federal law enforcement officer who acts pursuant to this section shall not be considered an officer, employee, or agent of any state or local law enforcement agency.

(e) For purposes of the Federal Tort Claims Act, a federal law enforcement officer acts within the scope of his office or employment while acting pursuant to this section.

(f) Nothing in this section shall be construed to expand the authority of federal officers to initiate or conduct an independent investigation into violation of North Carolina law. (1991, c. 262, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 8; 1993 (Reg. Sess., 1994), c. 571, s. 1; 2001-257, s. 1; 2003-36, s. 1.)

§§ 15A-407 through 15A-409. Reserved for future codification purposes.