

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

3

HOUSE BILL 369\*  
Committee Substitute Favorable 4/9/13  
Senate Judiciary I Committee Substitute Adopted 6/26/14

Short Title: Criminal Law Changes/WC Illegal Aliens.

(Public)

Sponsors:

Referred to:

March 21, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO VARIOUS CRIMINAL LAWS AND TO AMEND THE  
3 WORKERS' COMPENSATION ACT TO EXCLUDE FROM BENEFITS UNDER  
4 G.S. 97-29 AND G.S. 97-30, AND FROM VOCATIONAL REHABILITATION,  
5 ILLEGAL ALIEN INJURED WORKERS WHO OBTAINED EMPLOYMENT  
6 THROUGH MISREPRESENTATION OF EMPLOYMENT STATUS.

7 The General Assembly of North Carolina enacts:

8  
9 **ALLOW EXPUNCTION OF CERTAIN DRUG OFFENSES**

10 **SECTION 1.** G.S. 15A-145.5(a)(5) reads as rewritten:

11 **"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

12 (a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent  
13 felony" means any misdemeanor or felony except the following:

14 ...

15 (5) Any felony offense in Chapter 90 of the General Statutes where the offense  
16 involves ~~methamphetamines, heroin, or~~ possession with intent to sell or  
17 deliver or sell and deliver cocaine."

18  
19 **CONDITIONAL DISCHARGE IN LIEU OF DEFERRED PROSECUTION**

20 **SECTION 2.(a)** G.S. 15A-1341 reads as rewritten:

21 **"§ 15A-1341. Probation generally.**

22 (a) Use of Probation. – Unless specifically prohibited, a person who has been convicted  
23 of any criminal offense may be placed on probation as provided by this Article if the class of  
24 offense of which the person is convicted and the person's prior record or conviction level under  
25 Article 81B of this Chapter authorizes a community or intermediate punishment as a type of  
26 sentence disposition or if the person is convicted of impaired driving under G.S. 20-138.1.

27 (a1) ~~Deferred Prosecution-Conditional discharge. – A person who has been charged with~~  
28 Whenever a person pleads guilty to or is found guilty of a Class H or I felony or a misdemeanor  
29 may be placed-misdemeanor, the court may, on motion of the defendant and the prosecutor, and  
30 without entering a judgment of guilt and with the consent of the person, defer further  
31 proceedings and place the person on probation as provided in this Article on motion of the  
32 defendant and the prosecutor for the purpose of allowing the defendant to demonstrate the  
33 defendant's good conduct, if the court finds each of the following facts:



- 1           (1) ~~Prosecution has been deferred by the prosecutor pursuant to written~~  
2           ~~agreement with the defendant, with the approval of the court, for the purpose~~  
3           ~~of allowing the defendant to demonstrate his good conduct.~~  
4           (2) Each known victim of the crime has been notified of the motion for  
5           probation by subpoena or certified mail and has been given an opportunity to  
6           be heard.  
7           (3) The defendant has not been convicted of any felony or of any misdemeanor  
8           involving moral turpitude.  
9           (4) The defendant has not previously been placed on probation and so states  
10          under oath.  
11          (5) The defendant is unlikely to commit another offense other than a Class 3  
12          misdemeanor.

13          (a2) ~~Deferred Prosecution-Conditional Discharge~~ for Purpose of Drug Treatment Court  
14          Program. – ~~A~~ When a defendant is eligible for a Drug Treatment Court Program pursuant to  
15          Article 62 of Chapter 7A of the General Statutes may be placed on probation if the court finds  
16          ~~that prosecution has been deferred by the prosecutor, with the approval of the court, pursuant to~~  
17          ~~a written agreement with the defendant, Statutes, the court may, without entering a judgment of~~  
18          guilt and with the consent of the defendant, defer further proceedings and place the defendant  
19          on probation for the purpose of allowing the defendant to participate in and successfully  
20          complete the Drug Treatment Court Program.

21          (a3) ~~Deferred Prosecution-Conditional Discharge~~ for Prostitution. – A defendant ~~whose~~  
22          ~~prosecution is deferred pursuant to G.S. 14-204(e) for whom the court orders a conditional~~  
23          discharge pursuant to G.S. 14-204(b) may be placed on probation as provided in this Article.

24          (a4) Compliance With Terms of Conditional Discharge. – Upon violation of a term or  
25          condition of a conditional discharge granted pursuant to this section, the court may enter an  
26          adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and  
27          conditions of a conditional discharge granted pursuant to this section, the court shall discharge  
28          the person and dismiss the proceedings against the person.

29          (b) Supervised and Unsupervised Probation. – The court may place a person on  
30          supervised or unsupervised probation. A person on unsupervised probation is subject to all  
31          incidents of probation except supervision by or assignment to a probation officer.

32          (c) Repealed by Session Laws 1995, c. 429, s. 1.

33          (d) Search of Sex Offender Registration Information Required When Placing a  
34          Defendant on Probation. – When the court places a defendant on probation, the probation  
35          officer assigned to the defendant shall conduct a search of the defendant's name or other  
36          identifying information against the registration information regarding sex offenders compiled  
37          by the Division of Criminal Statistics of the Department of Justice in accordance with Article  
38          27A of Chapter 14 of the General Statutes. The probation officer may conduct the search using  
39          the Internet site maintained by the Division of Criminal Statistics.

40          (e) Review of Defendant's Juvenile Record. – The probation officer assigned to a  
41          defendant may examine and obtain copies of the defendant's juvenile record in a manner  
42          consistent with G.S. 7B-3000(b) and (e1)."

43          **SECTION 2.(b)** G.S. 7A-49.4(b) reads as rewritten:

44          "(b) Administrative Settings. – An administrative setting shall be calendared for each  
45          felony within 60 days of indictment or service of notice of indictment if required by law, or at  
46          the next regularly scheduled session of superior court if later than 60 days from indictment or  
47          service if required. At an administrative setting:

- 48               (1) The court shall determine the status of the defendant's representation by  
49               counsel;  
50               (2) After hearing from the parties, the court shall set deadlines for the delivery  
51               of discovery, arraignment if necessary, and filing of motions;

- 1 (3) If the district attorney has made a determination regarding a plea  
2 arrangement, the district attorney shall inform the defendant as to whether a  
3 plea arrangement will be offered and the terms of any proposed plea  
4 arrangement, and the court may conduct a plea conference if supported by  
5 the interest of justice;
- 6 (4) The court may hear pending pretrial motions, set such motions for hearing  
7 on a date certain, or defer ruling on motions until the trial of the case; and
- 8 (5) The court may schedule more than one administrative setting if requested by  
9 the parties or if it is found to be necessary to promote the fair administration  
10 of justice in a timely manner.

11 Whenever practical, administrative settings shall be held by a superior court judge residing  
12 within the district, but may otherwise be held by any superior court judge.

13 If the parties have not otherwise agreed upon a trial date, then upon the conclusion of the  
14 final administrative setting, the district attorney shall announce a proposed trial date. The court  
15 shall set that date as the tentative trial date unless, after providing the parties an opportunity to  
16 be heard, the court determines that the interests of justice require the setting of a different date.  
17 In that event, the district attorney shall set another tentative trial date during the final  
18 administrative setting. The trial shall occur no sooner than 30 days after the final administrative  
19 setting, except by agreement of the State and the defendant.

20 Nothing in this section precludes the disposition of a criminal case by ~~plea, deferred~~  
21 ~~prosecution, plea~~ or dismissal prior to an administrative setting."

22 **SECTION 2.(c)** G.S. 7A-272 reads as rewritten:

23 **"§ 7A-272. Jurisdiction of district court; concurrent jurisdiction in guilty or no contest**  
24 **pleas for certain felony offenses; appellate and appropriate relief procedures**  
25 **applicable.**

26 ...

27 (e) With the consent of the chief district court judge and the senior resident superior  
28 court judge, the district court has jurisdiction to preside over the supervision of a probation  
29 judgment entered in superior court in which the defendant is required to participate in a drug  
30 treatment court program pursuant to G.S. 15A-1343(b1)(2b) or a therapeutic court as defined in  
31 subsection (f) of this section, or is participating in the drug treatment court pursuant to a  
32 ~~deferred prosecution agreement under the terms of a conditional discharge under~~  
33 G.S. 15A-1341(a2). The district court may modify or extend the probation judgment, but  
34 jurisdiction to revoke probation supervised under this subsection is as provided in  
35 G.S. 7A-271(f).

36 (f) As used in subsection (e) of this section, the term "therapeutic court" refers to a  
37 court, other than drug treatment court established pursuant to Article 62 of Chapter 7A of the  
38 General Statutes, in which a criminal defendant, either as a condition of probation or pursuant  
39 to a ~~deferred prosecution agreement~~ the terms of a conditional discharge under G.S. 15A-1341,  
40 is ordered to participate in specified activities designed to address underlying problems of  
41 substance abuse and mental illness that contribute to the person's criminal activity. The ordered  
42 activities shall, at a minimum, require the person to participate in treatment and attend regular  
43 court sessions of the therapeutic court over an extended period of time. The senior resident  
44 superior court judge and the chief district court judge shall agree in writing that the therapeutic  
45 court is being established and shall file the written agreement with the Administrative Office of  
46 the Courts before jurisdiction established by subsection (e) of this section may be exercised by  
47 the district court."

48 **SECTION 2.(d)** G.S. 14-313(f) reads as rewritten:

49 "(f) ~~Deferred prosecution-Conditional discharge.~~ – Notwithstanding G.S. 15A-1341(a1),  
50 any person charged with a misdemeanor under this section shall be qualified for ~~deferred~~  
51 ~~prosecution~~ a conditional discharge pursuant to Article 82 of Chapter 15A of the General

1 Statutes provided the defendant has not previously been placed on probation for a violation of  
2 this section and so states under oath."

3 **SECTION 2.(e)** G.S. 15A-146(d) reads as rewritten:

4 "(d) A person charged with a crime that is dismissed pursuant to compliance with a  
5 deferred prosecution agreement or the terms of a conditional discharge and who files a petition  
6 for expunction of a criminal record under this section must pay the clerk of superior court a fee  
7 of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected  
8 under this subsection are payable to the Administrative Office of the Courts. The clerk of  
9 superior court shall remit one hundred twenty-two dollars and fifty cents (\$122.50) of each fee  
10 to the North Carolina Department of Justice for the costs of criminal record checks performed  
11 in connection with processing petitions for expunctions under this section. The remaining  
12 fifty-two dollars and fifty cents (\$52.50) of each fee shall be retained by the Administrative  
13 Office of the Courts and used to pay the costs of processing petitions for expunctions under this  
14 section. This subsection does not apply to petitions filed by an indigent."

15 **SECTION 2.(f)** G.S. 15A-932 reads as rewritten:

16 "**§ 15A-932. Dismissal with leave when defendant fails to appear and cannot be readily**  
17 **~~found or pursuant to a deferred prosecution agreement.~~found.**

18 (a) The prosecutor may enter a dismissal with leave for nonappearance when a  
19 defendant:

- 20 (1) Cannot be readily found to be served with an order for arrest after the grand  
21 jury had indicted him; or  
22 (2) Fails to appear at a criminal proceeding at which his attendance is required,  
23 and the prosecutor believes the defendant cannot be readily found.

24 ~~(a1) The prosecutor may enter a dismissal with leave pursuant to a deferred prosecution~~  
25 ~~agreement entered into in accordance with the provisions of Article 82 of this Chapter.~~

26 (b) Dismissal with leave for nonappearance ~~or pursuant to a deferred prosecution~~  
27 ~~agreement~~ results in removal of the case from the docket of the court, but all process  
28 outstanding retains its validity, and all necessary actions to apprehend the defendant,  
29 investigate the case, or otherwise further its prosecution may be taken, including the issuance of  
30 nontestimonial identification orders, search warrants, new process, initiation of extradition  
31 proceedings, and the like.

32 (c) The prosecutor may enter the dismissal with leave for nonappearance ~~or pursuant to~~  
33 ~~a deferred prosecution agreement~~ orally in open court or by filing the dismissal in writing with  
34 the clerk. If the dismissal for nonappearance ~~or pursuant to a deferred prosecution agreement~~ is  
35 entered orally, the clerk must note the nature of the dismissal in the case records.

36 (d) Upon apprehension of the defendant, or in the discretion of the prosecutor when he  
37 believes apprehension is imminent, the prosecutor may reinstitute the proceedings by filing  
38 written notice with the clerk.

39 (d1) If the proceeding was dismissed pursuant to subdivision (2) of subsection (a) of this  
40 section and charged only offenses for which written appearance, waiver of trial or hearing, and  
41 plea of guilty or admission of responsibility are permitted pursuant to G.S. 7A-148(a), and the  
42 defendant later tenders to the court that waiver and payment in full of all applicable fines, costs,  
43 and fees, the clerk shall accept said waiver and payment without need for a written  
44 reinstatement from the prosecutor. Upon disposition of the case pursuant to this subsection, the  
45 clerk shall recall any outstanding criminal process in the case pursuant to G.S. 15A-301(g)(2)b.

46 (e) If the defendant fails to comply with the terms of a deferred prosecution agreement,  
47 the prosecutor may reinstitute the proceedings by filing written notice with the clerk."

48 **SECTION 2.(g)** G.S. 15A-1342 reads as rewritten:

49 "**§ 15A-1342. Incidents of probation.**

50 (a) Period. – The court may place a convicted offender on probation for the appropriate  
51 period as specified in G.S. 15A-1343.2(d), not to exceed a maximum of five years. The court

1 may place a defendant as to whom prosecution has been deferred or who receives a conditional  
2 discharge on probation for a maximum of two years. The probation remains conditional and  
3 subject to revocation during the period of probation imposed, unless terminated as provided in  
4 subsection (b) or G.S. 15A-1341(c).

5 Extension. – In addition to G.S. 15A-1344, the court with the consent of the defendant may  
6 extend the period of probation beyond the original period (i) for the purpose of allowing the  
7 defendant to complete a program of restitution, or (ii) to allow the defendant to continue  
8 medical or psychiatric treatment ordered as a condition of the probation. The period of  
9 extension shall not exceed three years beyond the original period of probation. The special  
10 extension authorized herein may be ordered only in the last six months of the original period of  
11 probation. Any probationary judgment form provided to a defendant on supervised probation  
12 shall state that probation may be extended pursuant to this subsection.

13 (a1) ~~Supervision of Defendants on Deferred Prosecution.~~ Prosecution or Conditional  
14 Discharge. – The Section of Community Corrections of the Division of Adult Correction of the  
15 Department of Public Safety may be ordered by the court to supervise an offender's compliance  
16 with the terms of a conditional discharge or deferred prosecution agreement entered into under  
17 G.S. 15A-1341(a1) or (a3). Violations of the terms of the agreement shall be reported to the  
18 court as provided in this Article and to the district attorney in the district in which the  
19 agreement was entered.

20 ...

21 (i) Immunity from Prosecution upon Compliance. – Upon the expiration or early  
22 termination as provided in subsection (b) of a period of probation imposed after deferral of  
23 prosecution and before ~~conviction,~~ conviction or a conditional discharge, the defendant shall be  
24 immune from prosecution of the charges ~~deferred,~~ deferred or discharged and dismissed.

25 ...."

26 **SECTION 2.(h)** G.S. 15A-1343 reads as rewritten:

27 "**§ 15A-1343. Conditions of probation.**

28 ...

29 (c1) Supervision Fee. – Any person placed on supervised probation pursuant to  
30 subsection (a) of this section shall pay a supervision fee of forty dollars (\$40.00) per month,  
31 unless exempted by the court. The court may exempt a person from paying the fee only for  
32 good cause and upon motion of the person placed on supervised probation. No person shall be  
33 required to pay more than one supervision fee per month. The court may require that the fee be  
34 paid in advance or in a lump sum or sums, and a probation officer may require payment by  
35 such methods if he is authorized by subsection (g) to determine the payment schedule.  
36 Supervision fees must be paid to the clerk of court for the county in which the judgment was  
37 ~~entered or entered,~~ the deferred prosecution agreement was ~~filed,~~ filed, or the conditional  
38 discharge was ordered. Fees collected under this subsection shall be transmitted to the State for  
39 deposit into the State's General Fund.

40 (c2) Electronic Monitoring Device Fees. – Any person placed on house arrest with  
41 electronic monitoring under subsection (a1) or (b1) of this section shall pay a fee of ninety  
42 dollars (\$90.00) for the electronic monitoring device and a daily fee in an amount that reflects  
43 the actual cost of providing the electronic monitoring. The court may exempt a person from  
44 paying the fees only for good cause and upon motion of the person placed on house arrest with  
45 electronic monitoring. The court may require that the fees be paid in advance or in a lump sum  
46 or sums, and a probation officer may require payment by those methods if the officer is  
47 authorized by subsection (g) of this section to determine the payment schedule. The fees must  
48 be paid to the clerk of court for the county in which the judgment was ~~entered or entered,~~ the  
49 deferred prosecution agreement was ~~filed,~~ filed, or the conditional discharge was ordered. Fees  
50 collected under this subsection for the electronic monitoring device shall be transmitted to the  
51 State for deposit into the State's General Fund. The daily fees collected under this subsection

1 shall be remitted to the Department of Public Safety to cover the costs of providing the  
2 electronic monitoring."

3 **SECTION 2.(i)** G.S. 143B-708 reads as rewritten:

4 **"§ 143B-708. Community service program.**

5 ...

6 (c) A fee of two hundred fifty dollars (\$250.00) shall be paid by all persons who  
7 participate in the program or receive services from the program staff. Only one fee may be  
8 assessed for each sentencing transaction, even if the person is assigned to the program on more  
9 than one occasion, or while on deferred prosecution, a conditional discharge, or ~~while~~-serving a  
10 sentence for the offense. A sentencing transaction shall include all offenses considered and  
11 adjudicated during the same term of court. Fees collected pursuant to this subsection shall be  
12 deposited in the General Fund. If the person is convicted in a court in this State, the fee shall be  
13 paid to the clerk of court in the county in which the person is convicted, regardless of whether  
14 the person is participating in the program as a condition of parole, of probation imposed by the  
15 court, or pursuant to the exercise of authority delegated to the probation officer pursuant to  
16 G.S. 15A-1343.2(e) or (f). If the person is participating in the program as a result of a  
17 conditional discharge or a deferred prosecution or similar program, the fee shall be paid to the  
18 clerk of court in the county in which the agreement is filed. Persons participating in the  
19 program for any other reason shall pay the fee to the clerk of court in the county in which the  
20 services are provided by the program staff. The fee shall be paid in full before the person may  
21 participate in the community service program, except that:

- 22 (1) A person convicted in a court in this State may be given an extension of time  
23 or allowed to begin the community service before the person pays the fee by  
24 the court in which the person is convicted; or  
25 (2) A person performing community service pursuant to a conditional discharge,  
26 deferred prosecution or similar agreement may be given an extension of time  
27 or allowed to begin community service before the fee is paid by the official  
28 or agency representing the State in the agreement.  
29 (3) A person performing community service as a condition of parole may be  
30 given an extension of time to pay the fee by the Post-Release Supervision  
31 and Parole Commission. No person shall be required to pay the fee before  
32 beginning the community service unless the Commission orders the person  
33 to do so in writing.  
34 (4) A person performing community service as ordered by a probation officer  
35 pursuant to authority delegated by G.S. 15A-1343.2 may be given an  
36 extension of time to pay the fee by the probation officer exercising the  
37 delegated authority.

38 ...

39 (e) The community service staff shall report to the court in which the community  
40 service was ordered, a significant violation of the terms of the probation, or deferred  
41 prosecution, related to community service, including a willful failure to pay any moneys due  
42 the State under any court order or payment schedule adopted by the Section of Community  
43 Corrections of the Division of Adult Correction. The community service staff shall give notice  
44 of the hearing to determine if there is a willful failure to comply to the person who was ordered  
45 to perform the community service. This notice shall be given by either personal delivery to the  
46 person to be notified or by depositing the notice in the United States mail in an envelope with  
47 postage prepaid, addressed to the person at the last known address available to the preparer of  
48 the notice and reasonably believed to provide actual notice to the person. The notice shall be  
49 mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure  
50 to comply. The court shall then conduct a hearing, even if the person ordered to perform the  
51 community service fails to appear, to determine if there is a willful failure to complete the work

1 as ordered by the community service staff within the applicable time limits. The hearing may  
2 be held in the county in which the ~~probation judgment or deferred prosecution order~~ requiring  
3 the performance of community service was imposed, the county in which the violation  
4 occurred, or the county of residence of the person. If the court determines there is a willful  
5 failure to comply, it shall revoke any drivers license issued to the person and notify the  
6 Division of Motor Vehicles to revoke any drivers license issued to the person until the  
7 community service requirement has been met. In addition, if the person is present, the court  
8 may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for  
9 violation of a condition of probation."

10 **SECTION 2.(j)** This section becomes effective December 1, 2014. Deferred  
11 prosecution agreements filed before the effective date of this section are not abated or affected  
12 by this section, and the statutes that would be applicable but for this section remain applicable  
13 to those deferred prosecutions.  
14

### 15 **POSSESSION OF MARIJUANA PARAPHERNALIA/CLASS 3 MISDEMEANOR**

16 **SECTION 3.(a)** G.S. 90-113.22 reads as rewritten:

#### 17 **"§ 90-113.22. Possession of drug paraphernalia.**

18 (a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug  
19 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
20 produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal a  
21 controlled substance other than marijuana which it would be unlawful to possess, or to inject,  
22 ingest, inhale, or otherwise introduce into the body a controlled substance other than marijuana  
23 which it would be unlawful to possess.

24 (b) ~~Violation~~ Except as provided in G.S. 90-113.22A, a violation of this section is a  
25 Class 1 misdemeanor.

26 (c) Prior to searching a person, a person's premises, or a person's vehicle, an officer  
27 may ask the person whether the person is in possession of a hypodermic needle or other sharp  
28 object that may cut or puncture the officer or whether such a hypodermic needle or other sharp  
29 object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or  
30 other sharp object on the person, on the person's premises, or in the person's vehicle and the  
31 person alerts the officer of that fact prior to the search, the person shall not be charged with or  
32 prosecuted for possession of drug paraphernalia for the needle or sharp object. The exemption  
33 under this subsection does not apply to any other drug paraphernalia that may be present and  
34 found during the search. For purposes of this subsection, the term "officer" includes "criminal  
35 justice officers" as defined in G.S. 17C-2(3) and a "justice officer" as defined in  
36 G.S. 17E-2(3)."

37 **SECTION 3.(b)** Article 5B of Chapter 14 of the General Statutes is amended by  
38 adding a new section to read:

#### 39 **"§ 90-113.22A. Possession of marijuana drug paraphernalia.**

40 (a) It is unlawful for any person to knowingly use, or to possess with intent to use, drug  
41 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
42 produce, process, prepare, test, analyze, package, repackage, store, contain, or conceal  
43 marijuana, or to inject, ingest, inhale, or otherwise introduce marijuana into the body.

44 (b) A violation of this section is a Class 3 misdemeanor."

45 **SECTION 3.(c)** This section becomes effective December 1, 2014, and applies to  
46 offenses committed on or after that date.  
47

### 48 **HUMAN TRAFFICKING COMMISSION STUDY ERIN'S LAW**

49 **SECTION 4.(a)** The Human Trafficking Commission established by G.S. 114-70  
50 shall study the prevention of sexual abuse of children. As part of this study, the Commission  
51 shall do the following:

- 1 (1) Gather information concerning the occurrence of child sexual abuse
- 2 throughout the State.
- 3 (2) Identify statewide goals to prevent child sexual abuse.
- 4 (3) Examine an age-appropriate curriculum on the subject of sexual abuse for
- 5 students in kindergarten through grade six that could be included as part of
- 6 the Basic Education Program for the public schools.
- 7 (4) Identify methods for increasing teacher, student, and parent awareness of
- 8 issues regarding sexual abuse of children, including the warning signs
- 9 indicating that a child may be a victim of sexual abuse, actions that a child
- 10 who is a victim of sexual abuse may take to obtain assistance and
- 11 intervention, and available counseling options for children affected by sexual
- 12 abuse.
- 13 (5) Study any other issue the Commission considers relevant to this topic.

14 **SECTION 4.(b)** The Human Trafficking Commission shall submit a final report of  
15 the results of its study and its recommendations, including any proposed legislation, to the 2015  
16 General Assembly.

#### 17 18 **LIMIT WORKERS' COMPENSATION FOR ILLEGAL ALIENS**

19 **SECTION 5.(a)** Article 1 of Chapter 97 of the General Statutes is amended by  
20 adding a new section to read:

##### 21 **"§ 97-12.2. Illegal alien injured workers.**

22 (a) No compensation shall be allowed under this Article for injury by accident or  
23 occupational disease if the employer proves that at the time of hire or in the course of entering  
24 into employment that:

- 25 (1) The worker was not lawfully employable in the United States and knowingly  
26 made a false representation to the employer as to his or her legal work status;  
27 and
- 28 (2) The employer relied upon the worker's false representations, and the reliance  
29 was a substantial factor in the employer's decision to hire the employee.

30 (b) Any worker not lawfully employable in the United States who is not excluded under  
31 subsection (a) of this section from receiving benefits shall receive the same benefits under this  
32 Chapter as any lawful employee, except that a worker not lawfully employable in the United  
33 States shall not be entitled to any of the following:

- 34 (1) Vocational rehabilitation.
- 35 (2) Benefits under G.S. 97-29 and G.S. 97-30 if a duly qualified physician who  
36 is licensed and practicing in North Carolina has indicated that the worker is  
37 able to work in any capacity."

38 **SECTION 5.(b)** This section is effective when this act becomes law and applies to  
39 injuries arising on or after that date.

#### 40 41 **EFFECTIVE DATE**

42 **SECTION 6.** Except as otherwise provided in this act, this act is effective when it  
43 becomes law.