



SENATE BILL 584: Criminal Law Reform.

2019-2020 General Assembly

Committee:		Date:	January 8, 2020
Introduced by:		Prepared by:	Susan Sitze
Analysis of:	S.L. 2019-198		Staff Attorney

OVERVIEW: *S.L. 2019-198 subjects all rules adopted on or after January 1, 2020, and creating criminal penalties to a delayed effective date, extends the deadline for local governments and State agencies to report on ordinances and rules subject to a criminal penalty to November 1, 2019, and requires the General Statutes Commission to study the reports received.*

These provisions of this act became effective August 14, 2019.

This act also makes a change to criminal penalties related to real estate licensing, which became effective December 1, 2019, and applies to offenses committed on or after that date.

CURRENT LAW AND BACKGROUND:

S.L. 2018-69 required cities and towns that have enacted an ordinance pursuant to G. S. 14-4 to “create a list of applicable ordinances with a description of the conduct subject to criminal punishment in each ordinance” and submit it to the General Assembly by December 2018. As of July 9, 2019, 72 of 100 counties and 236 of 550 cities and towns had reported as required.

The same legislation required State agencies, boards, and commissions that have the power to define criminal conduct in the North Carolina Administrative Code to also report a list of crimes defined by the agency, board, or commission. As of July 9, 2019, 40 agencies, boards, and commissions had reported.

G. S. 14-4 authorizes counties, cities, towns, and metropolitan sewerage districts to create crimes through local ordinances. Generally, a violation of a local ordinance is a Class 3 misdemeanor.

BILL ANALYSIS:

This act amends the rule-making procedure to delay the effective date of rules that create a new criminal offense to either the 31st legislative day or the day of adjournment of the next regular session, whichever occurs first, unless disapproved by the General Assembly. This provision applies to rules adopted on or after January 1, 2020.

This act also amends S.L. 2018-69 as follows:

- Extends the reporting deadline for State agencies, boards, and commissions, and for counties, cities, towns, and metropolitan sewerage districts to file their reports to November 1, 2019.

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- Requires reports to go only to the Joint Legislative Administrative Procedure Oversight Committee, rather than both that committee and the Joint Legislative Oversight Committee on Justice and Public Safety.
- Limits the reporting requirement to counties with a population of 20,000 or more according to the last federal decennial census, and cities or towns with a population of 1,000 or more according to the last federal decennial census.

This act further provides that no ordinance adopted on or after January 1, 2020 and before January 1, 2022 by a county, city, or town that is required to report pursuant to S.L. 2018-69, as amended by this act, shall be subject to a criminal penalty as provided in G.S. 14-4 unless that county, city, or town submitted the required report on or before November 1, 2019.

This act requires the General Statutes Commission to study the reports received pursuant to S.L. 2018-69, as amended by this act, and make recommendations regarding whether conduct currently criminalized by ordinance or rule should have criminal penalties provided by a generally applicable State law. The Commission shall report to the 2019 General Assembly and to the Joint Oversight Committee on General Government on or before May 1, 2020.

Additionally, this act amends G.S. 93A-8, which currently provides a Class 1 misdemeanor for any violation of Chapter 93A Real Estate License Law, to provide that the Class 1 misdemeanor only applies to a violation of G.S. 93A-1 which requires all real estate brokers to have a license.

EFFECTIVE DATE: The change in real estate license law became effective December 1, 2019, and applies to offenses committed on or after that date. The remainder of this act became effective August 14, 2019.