



General Statutes Commission

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MEMORANDUM

To: House State Government
From: General Statutes Commission
Re: HB 68 (GSC Licensing Boards and Comm'ns/Rule Crimes)
Date: February 24, 2021

General Comments

This bill eliminates provisions that broadly criminalize violations of rules of certain licensing boards and commissions and makes technical and conforming amendments in the surrounding language. The General Statutes Commission recommended this bill in its report on its study of crimes defined by rule or ordinance. In Section 6 of S.L. 2019-198, as amended by Section 4.35(a) of S.L. 2020-3, the General Assembly directed the Commission to conduct this study and make recommendations regarding whether any crimes defined by rule or ordinance should instead be defined by statute. The Commission believes that enacting this bill would be a first step to reducing the number of crimes defined by rule. The Commission's study report is available on its website: <https://www.ncleg.gov/Documents/227>.

The Commission circulated a draft to all licensing boards and commissions affected by this bill; none of the boards and commissions have objected to any part of this bill. The Commission also published drafts of this bill on its website.

Specific Comments

Section 1 amends G.S. 53-166 relating to the State Banking Commission as follows:

- In subsection (c), eliminates language that criminalizes a violation of any rule of the State Banking Commission adopted under the N.C. Consumer Finance Act, makes language gender-neutral, eliminates unnecessary words, fixes relative pronouns, replaces legalese with plain English, and fixes punctuation.
- In subsection (a), replaces legalese with plain English.
- In subsection (b), eliminates unnecessary words and fixes a relative pronoun.
- In subsection (d), replaces "regulation" with "rule," which is the term currently used in the N.C. Administrative Procedure Act.

Section 2 amends G.S. 65-71 relating to the Cemetery Commission as follows:

- In subsection (a), eliminates language that criminalizes a violation of any order or rule of the Cemetery Commission adopted under the N.C. Cemetery Act and fixes a relative pronoun.
- In subsection (b), adds an Oxford comma and replaces legalese with plain English.

Section 3 amends G.S. 74C-17 relating to the Private Protective Services Board as follows:

- In subsection (b), eliminates language that criminalizes a knowing violation of any rule adopted by the Private Protective Services Board, replaces legalese with plain English, and makes language gender-neutral.
- In subsection (a), replaces legalese with plain English.
- In subsection (c), fixes a relative pronoun.
- In subsection (d), replaces legalese with plain English and makes language gender-neutral.

Section 4 amends G.S. 74D-11 relating to the Alarm Systems Licensing Board as follows:

- In subsection (b), eliminates language that criminalizes a knowing violation of any rule adopted by the Alarm Systems Licensing Board, fixes punctuation, replaces legalese with plain English, and makes language gender-neutral.
- In subsection (a), replaces legalese with plain English.
- In subsection (c), replaces legalese with plain English and fixes punctuation.
- In subsection (d), fixes a relative pronoun and fixes punctuation.
- In subsection (e), replaces legalese with plain English and makes language gender-neutral.
- In subsection (f), replaces legalese with plain English.

Section 5 amends G.S. 87-48(a) by eliminating language that criminalizes a violation of any rule of the State Board of Examiners of Electrical Contractors, fixing punctuation, fixing relative pronouns, replacing legalese with plain English, and eliminating unnecessary words.

Section 6 amends G.S. 90-48 by eliminating language that criminalizes a violation of any rule of the State Board of Dental Examiners, updating and adding more information to the section catchline, replacing legalese with plain English, updating language to conform to the N.C. Administrative Procedure Act, and amending the second paragraph to conform to the Board's current practice of making certain information available on its website.

Section 7(a) amends G.S. 90-121.1 by eliminating a reference to conform to the amendment made by the next section, fixing punctuation, replacing legalese with plain English, and making language gender-neutral.

Section 7(b) amends G.S. 90-124 by eliminating language that criminalizes a violation of any rule of the State Board of Examiners in Optometry, updating and adding more information to the section catchline, updating language to conform to the N.C. Administrative Procedure Act, and amending the second paragraph to conform to the Board's current practice of making certain information available on its website.

Section 8 amends G.S. 90-288 relating to the State Board of Examiners for Nursing Home Administrators as follows:

- In subdivision (2), eliminates language that criminalizes a violation of any rule of the State Board of Examiners for Nursing Home Administrators.
- In the introductory language, replaces legalese with plain English and fixes the format of a list.
- In subdivision (1), makes language gender-neutral.

Section 9 amends G.S. 90A-66 by eliminating language that criminalizes a violation of any rule of the State Board of Environmental Health Specialist Examiners, replacing legalese with plain English, and making language gender-neutral.

Section 10 amends G.S. 131E-81 relating to the Medical Care Commission as follows:

- In subsection (b), eliminates language that criminalizes a willful violation of any rule of the Medical Care Commission adopted under Part 2 of the Hospital Licensure Act, fixes relative pronouns, fixes punctuation, and replaces legalese with plain English.
- In subsection (a), replaces legalese with plain English.

Section 11 amends G.S. 131E-109 relating to the Medical Care Commission as follows:

- In subsection (d), eliminates language that criminalizes a willful violation of any rule of the Medical Care Commission adopted under the Nursing Home Licensure Act, fixes relative pronouns, fixes punctuation, and replaces legalese with plain English.
- In subsection (a), adds an Oxford comma and replaces legalese with plain English.
- In subsection (b), fixes a relative pronoun, replaces legalese with plain English, replaces "must" with "shall" to conform to the rest of the section, and eliminates unnecessary words.
- In subsection (c), adds words for greater clarity and replaces legalese with plain English.

Section 12 provides that this act becomes effective December 1, 2021, and applies to offenses committed on or after that date. This section also provides that this act does not affect prosecutions for offenses committed before the effective date of this act.